

रजिस्टर्ड नं० पी० 461.



राजपत्र, हिमाचल प्रदेश (असाधारण)

हिमाचल प्रदेश राज्यशासन द्वारा प्रकाशित

शिमला, शनिवार, 29 अगस्त, 1970/7 भाद्रपद, 1892

GOVERNMENT OF HIMACHAL PRADESH

LAW DEPARTMENT

NOTIFICATION

Simla-2, the 1st August, 1970

No. 6-17/65-LR.—The Himachal Pradesh Panchayati Raj Bill, 1968
(Bill No. 30 of 1968) after having received the assent of the President on

the 10th July, 1970, under sub-section (2) of section 25 of the Government of Union Territories Act, 1963 (Act No. 20 of 1963) is hereby published in the Rajpatra, Himachal Pradesh, as Act No. 19 of 1970.

JOSEPH DINA NATH,
Under Secretary (Judicial).

THE HIMACHAL PRADESH PANCHAYATI RAJ ACT, 1968

Act No. 19 of 1970

AN

ACT

to consolidate and amend the laws relating to Panchayats, Panchayat Samitis and Zila Parishads and to provide for the constitution of Panchayats, Panchayat Samitis and Zila Parishads in the entire Union territory of Himachal Pradesh on a uniform pattern.

Be it enacted by the Legislative Assembly of Himachal Pradesh in the Nineteenth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Himachal Pradesh Panchayati Raj Act, 1968.

(2) It shall extend to the whole of Himachal Pradesh.

(3) It shall come into force on such date as the Government may, by notification, appoint.

Short title,
extent and
commence-
ment.

1 of 1953
4 of 1953
3 of 1961

2. The Himachal Pradesh Panchayat Raj Act, 1952 is hereby repealed. The Punjab Gram Panchayat Act, 1952 and the Punjab Panchayat Samitis and Zila Parishads Act, 1961, as in force in the transferred territory, are also hereby repealed. But notwithstanding such repeal, anything done or any action taken in exercise of powers conferred by these three repealed Acts, shall be deemed to have been done or taken under this Act to the extent that it is not inconsistent with the provisions of this Act.

Repeal and
savings.

3. (1) In this Act, unless the context otherwise requires:—

Definitions.

(a) "adult" means a person, male or female, who has attained the age of 21 years.

(b) "annual value" means,—

(i) double the land revenue for the time being assessed on any land, whether the assessment is leviable or not; or

(ii) where the land revenue has been permanently assessed, or has been wholly or in part compounded for or redeemed, double the amount which, but for such permanent assessment, composition or redemption, would have been leviable; or

(iii) where no land revenue has been assessed, double the amount which would have been assessed if the average village rate had been applied:

Provided that, in any tract in which, under the settlement for the time being in force, the improvement of the land due to canal irrigation has been excluded from account in assessing the land revenue and rate has been imposed in respect of such improvement, that rate shall be added to the land revenue for the purpose of computing the annual value;

- (c) "block" means such area in a district as may be declared by the Government by notification to be a block;
- (d) "building" means any shop, house, out-house, hut, shed, stable, whether used for the purpose of human habitation or otherwise and whether of stone, concrete, bricks, masonry, wood, mud, thatch, metal or any other material whatever and includes a wall;
- (e) "bye-laws" means bye-laws made by a Gram Panchayat, Panchayat Samiti or Zila Parishad under this Act;
- (f) "case" means 'criminal proceedings' in respect of an offence triable by a Nyaya Panchayat and "circle" means the area within which a Nyaya Panchayat exercises jurisdiction under section 194 of this Act;
- (g) "Collector" or "District Magistrate" or "Sub-Divisional Judge" with reference to a "Gram Sabha", "Gram Panchayat" or "Nyaya Panchayat" means a Collector, District Magistrate or Magistrate 1st Class or Sub-Judge of the district or the sub-division, as the case may be, in which such Sabha, Gram Panchayat or Nyaya Panchayat is constituted;
- (h) "common land" means the land which is not in the exclusive use of any individual and has, by usage, custom, prescription or by law, been reserved for the common purposes of village community or has been acquired for such purposes;
- (i) "Deputy Commissioner" means the Deputy Commissioner of a district and includes any officer specially appointed by the Government to perform the functions of a Deputy Commissioner under this Act:
 Provided that such officer shall not perform any function in respect of which the decision of the Deputy Commissioner under this Act is final;
- (j) "Director" means the Director of Panchayati Raj appointed under this Act;
- (k) "Government" or "State Government" means the Government of Himachal Pradesh;
- (l) "Gram Panchayat" or "Panchayat" means the Executive Committee of the Gram Sabha established under section 9 of this Act and "Nyaya Panchayat" means a Nyaya Panchayat established under section 194 of this Act;
- (m) "Gram Sabha" or "Sabha" means a Gram Sabha established under section 5 of this Act and "Sabha area" means an area declared to be a "Sabha area" under section 4 of this Act;
- (n) "land" means land assessed to land revenue and includes land whereof the land revenue has been wholly, or in part, released, compounded for, redeemed or assigned;
- (o) "land holder" means any person responsible for the payment of the land revenue, if any, assessed on land and includes the proprietor of land, the land revenue of which has been wholly, or in part, released, compounded for, redeemed or assigned;
- (p) "land revenue" includes tirni or grazing dues levied for grazing on Government land;
- (q) "member" means a member of the Gram Panchayat, Nyaya Panchayat, Gram Sabha, Panchayat Samiti or Zila Parishad, as the case may be;
- (r) "Official Gazette" or "Gazette" means the Rajpatra, Himachal Pradesh;

- (g) "Panch" means a member of Gram Panchayat elected or appointed under this Act and includes a Pradhan or Up-Pradhan and "Nyaya Panch" means a member of Nyaya Panchayat elected or appointed under this Act and includes a Sarpanch or Naib-Sarpanch;
- (t) "Panchayat forest" means a forest which has been so declared by the State Government by notification issued in this behalf;
- (u) "Panchayat Samiti" means a Panchayat Samiti constituted under section 61 of this Act and having jurisdiction over the block area; and "Zila Parishad" means a Zila Parishad constituted under section 139 of this Act;
- (v) "population" means the population of a village or area as determined in the manner prescribed in this behalf;
- (w) "prescribed" means prescribed by this Act or rules made thereunder;
- (x) "prescribed authority" means the authority notified as such by the Government;
- (y) "public place" means a space not being private property which is open to use or enjoyment of the public whether such space is vested in Gram Sabha or not;
- (z) "public street" means any road, street, bridge, lane, square, court, alley, or passage which the public has a right to pass along, and includes on either side, the drains or gutters and the land upto defined boundary of any abutting property, notwithstanding any projection over such land of any verandah or other superstructure;
- (aa) "public servant" means a public servant as defined in section 21 of the Indian Penal Code, 1860; 45 of 1860
- (bb) "schedule" means a schedule appended to this Act;
- (cc) "Sub-Divisional Officer" means the officer in-charge of a sub-division of a district constituted for revenue and general purposes and where a sub-division does not exist such officer as may be declared by the Government as Sub-Divisional Officer, for the purpose of this Act;
- (dd) "suit" means a revenue or civil suit triable by a Nyaya Panchayat;
- (ee) "tax" includes a cess, duty, fee, rate, toll, import duty or other duty leviable under this Act;
- (ff) "village" means any local area, recorded as a revenue estate in the revenue records of the district in which it is situated or any other local area which the Government may, by general or special order, declare to be a village;
- (gg) "water-course" means a *kuhl* or channel which is used for irrigation or providing drinking water and the management whereof has been partly or wholly entrusted to the Gram Panchayat;
- (hh) "offence", "bailable offence", "non-bailable offence", "cognizable offence", "complaint", "officer-in-charge of a police station" and "police station" have the same meanings as in section 4 of the Code of Criminal Procedure, 1898; 5 of 1898
- ii) "decree", "decree holder", "judgement debtor", "legal representative" and "immovable property" have the same meanings as in section 2 of the Code of Civil Procedure, 1908; 5 of 1908
- (jj) "tenant", "rent" and "rates and cesses" have the same meanings as assigned to these expressions in the Punjab Land Revenue Act, 1887, as in force in the transferred territory or, as the case may be, the Himachal Pradesh Land Revenue Act, 1954; 17 of 1887
6 of 1954

(kk) "transferred territory" means the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966; and

31 of 1966

(ll) "Scheduled caste" shall have the same meaning as assigned to it in clause (24) of Article 366 of the Constitution of India.

(2) Words and expressions used but not defined in this Act shall have the meanings assigned to them in the law for the time being in force relating to Municipalities and Marketing Committees (if any) in the respective areas.

CHAPTER II

SABHA AREAS AND ESTABLISHMENT AND CONSTITUTION OF GRAM SABHAS

Demarcation of Sabha areas.

4. (1) The Government may, by notification, declare any village or group of contiguous villages with a population of not less than five hundred and not more than five thousand to constitute one or more Sabha areas:

Provided that neither the whole nor any part of a cantonment, municipality of any class, or a notified area under section 241 of the Punjab Municipal Act, 1911, as in force in Himachal Pradesh, or a small town committee shall be included in a Sabha area:

3 of 1911

Provided further that the Government may, in any particular case, relax these limits.

(2) The Government may, by notification, include any area in, or exclude any area from the, Sabha area.

(3) If the whole of the Sabha area is included in a municipality, cantonment, notified area under section 241 of the Punjab Municipal Act, 1911, as applicable to Himachal Pradesh, or small town committee, the Sabha shall cease to exist and its assets and liabilities shall be disposed of in the manner prescribed.

3 of 1911

Establishment and constitution of Gram Sabha.

5. (1) The Government may, by notification, establish Gram Sabha by name in every Sabha area.

(2) Every Gram Sabha shall, by the name notified under sub-section (1), be a body corporate having perpetual succession and a common seal, and subject to any restriction by or under this Act or any other law, shall have power to acquire, hold, administer and transfer property, movable or immovable, and to enter into contracts, and shall by the said name sue or be sued and do all such things as are necessary for which it is constituted.

(3) Every person, who, for the time being, is entered as a voter on the electoral roll of the Himachal Pradesh Legislative Assembly for the time being in force, and pertaining to the Sabha area, shall be a member of the Sabha of that Sabha area.

Meetings and quorum of Sabha.

6. (1) Every Sabha shall hold two general meetings in each year, one in the summer and the other in the winter and it shall be the responsibility of the Pradhan to convene such meetings:

Provided that not more than eight months shall intervene between the two general meetings unless a relaxation is allowed by the prescribed authority in this behalf. If a general meeting is not called by the Pradhan in accordance with this sub-section, the prescribed authority shall call such meeting:

Provided further that the Pradhan may, at any time or upon a requisition in writing of not less than one-fifth of the members, shall, within 30 days from the receipt of such requisition, call an extraordinary general meeting. On the failure of the Pradhan to do so, the prescribed authority shall, within further period of 30 days call an extraordinary general meeting.

(2) The time and place of all the meetings of the Gram Sabha shall be published in the prescribed manner.

(3) For any general meeting of the Gram Sabha, one-fifth of the total number of its members shall form a quorum and decisions will be taken by a majority vote:

Provided that no quorum shall be necessary for a meeting adjourned for want of quorum.

7. No defect or omission in the enrolment of a member shall vitiate any act or proceedings of a Gram Sabha, if not less than two-thirds of the members at the time, the act is done, or the proceedings are taken, were duly qualified members thereof.

Defect or omission in enrolment of members not to vitiate act or proceedings of the Gram Sabha

8. The Gram Sabha shall at its winter meeting consider and pass the budget for the following year and at its summer meeting it shall consider the accounts of the preceding year. At both meetings, the Gram Sabha shall consider the six monthly reports of business submitted by the Gram Panchayat.

Budget of Sabha.

CHAPTER III

GRAM PANCHAYATS

9. (1) Every Sabha shall, in the prescribed manner, elect from amongst its members an executive committee consisting of such number of persons not being less than seven or more than fifteen, as the Government may determine:

Provided that if no woman is elected as a Panch of any Sabha, the Gram Panchayat shall co-opt as such Panch, one woman member of the Sabha who is qualified to be elected as Panch, in the prescribed manner:

Provided further that every Gram Panchayat shall include two members of scheduled castes either elected or co-opted. If one member of scheduled caste is elected, the other scheduled caste member, who is otherwise qualified to be elected as Panch, shall be co-opted. If two members of scheduled castes are already elected, no co-option of a scheduled caste member shall take place.

Establishment and constitution of Gram Panchayat and disqualification to be members thereof.

(2) The members of the executive committee of each Gram Sabha shall elect from amongst themselves the Chairman and Vice-Chairman of the executive committee by majority vote in the prescribed manner and such Chairman and Vice-Chairman shall also be called the Pradhan and Up-Pradhan respectively of the executive committee which shall be styled as the Gram Panchayat, the members thereof to be called Panches.

(3) Every woman and member of a scheduled caste co-opted as a Panch under the provisos to sub-section (1) shall have the right to vote at a meeting of the Gram Panchayat.

(4) The election to the Gram Panchayat shall be by secret ballot and direct vote and for the purposes of such election, the Gram Sabha shall be divided into wards with single member constituencies on the basis of population, in the prescribed manner, and the candidate securing the highest number of valid votes in each constituency shall be deemed to have been duly elected. If after the counting of votes is completed, an equality of votes is found to exist between any candidates in the constituency, and the addition of one vote will entitle any of those candidates to be declared elected, the returning officer shall forthwith decide between those candidates by lot, and proceed as if the candidate on whom the lot falls had received an additional vote.

- (5) No person who is not a member of the Sabha and/or who;—
- (a) is not qualified to be elected as a member of the Legislative Assembly;
 - (b) has been convicted of any offence involving moral turpitude unless a period of five years has elapsed since his conviction; or
 - (c) has been subjected to an order by a criminal court and which order, in the opinion of the officer to whom the Government has delegated its powers of removal, implies a defect of character unfitting him to be a Pradhan, Up-Pradhan or Panch, unless a period of five years has elapsed since the date of order; or
 - (d) has been convicted of an election offence under any law for the time being in force; or
 - (e) has been ordered to give security for good behaviour under section 110 of the Code of Criminal Procedure, 1898; or
 - (f) has been notified as disqualified for appointment in public service, except on medical ground; or
 - (g) is a whole time salaried servant of any local authority or State Government or the Union of India; or
 - (h) is registered as a habitual offender under the Punjab Habitual Offenders (Control and Reform) Act, 1952 as in force in the transferred territory; or
 - (i) is an undischarged insolvent; or
 - (j) has not paid the arrears of any tax imposed by the Gram Panchayat or the Panchayat Samiti; or
 - (k) is an employee of Sabha or Gram Panchayat; or
 - (l) is a member of either House of Parliament or of the Legislative Assembly of Himachal Pradesh; or
 - (m) is a tenant or lessee holding a tenancy or lease under the Gram Sabha or is in arrears of rent of any lease or tenancy held under the Gram Sabha, or is contractor of the Gram Sabha ;

5 of 1898

12 of 1952

shall be entitled to stand for election as or continue to be, a Pradhan, Up-Pradhan or Panch.

Oath and
term of
office,
resignation
or removal,

10. (1) Before entering upon the duties of their office, the Panches shall take an oath in the form specified in Schedule I.

(2) The Pradhan, Up-Pradhan and Panches shall hold office for a period of five years unless any one of them ceases to be as such on account of removal or resignation earlier:

Provided that an out-going Panch shall, unless the Government otherwise directs, continue to hold his office until his successor has taken the oath.

(3) The Gram Panchayat may remove the Pradhan or Up-Pradhan from his office by a majority vote at any time provided such vote of non-confidence is not sponsored within one year from the date of his or her taking of oath of such office and provided further that no next vote of non-confidence shall be moved within an interval of one year of the previous non-confidence motion.

(4) Every Panch or servant of a Gram Panchayat constituted under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

45 of 1860

Filling of
casual
vacancies.

11. Whenever a vacancy occurs by the death, resignation or removal of a Panch, a new Panch shall be elected in such manner as may be prescribed, and the person so elected shall hold office for the un-expired portion of the term for which the person in whose place he was elected would have otherwise continued in office.

12. If, for any reason, all members of a Gram Panchayat are not elected, the Gram Panchayat may function:

Provided that not less than two-third members thereof stand duly elected but no co-option shall be done by such Gram Panchayat unless all its members are duly elected.

Function-
ing of Gram
Panchayat
in case all
Panches
are not
elected.

CHAPTER IV

GRAM PANCHAYATS—CONDUCT OF BUSINESS, DUTIES, FUNCTIONS AND POWERS

13. (1) The meeting of the Gram Panchayat shall be public and shall be held at least once a month at some place within the Gram Panchayat area for which it is established, whenever called by the Pradhan:

Meetings of
Gram
Panchayat.

Provided that the Pradhan, when required in writing by a majority of the Panches to call a meeting, shall do so within three days, failing which these Panches shall, with the previous approval of the prescribed authority, be entitled to call a meeting after giving a week's notice to the Pradhan and the other Panches.

(2) One-third of the members of the Panchayat shall form a quorum.

(3) The decisions of the Panchayat shall be by majority and when the voting is equal, the Pradhan or in his absence, the Up-Pradhan shall have an additional or casting vote.

14. (1) The Pradhan and, in his absence, the Up-Pradhan shall be responsible for the maintenance of all prescribed records and registers and other property belonging to or vested in the Sabha or the Panchayat and, on the vacation of his office or removal or suspension therefrom, the outgoing Pradhan or Up-Pradhan, as the case may be, shall hand them over to his successor Pradhan or to such other Panch or person as may be authorised in this behalf by the Deputy Commissioner.

Mainte-
nance of
Panchayat
records, etc.
and liability
to hand
them over.

(2) If, on a requisition made in this behalf by the Executive Officer of the Panchayat Samiti, any person, within a period of ten days of such requisition, fails under sub-section (1) to hand over the prescribed records and registers and other property belonging to or vested in the Sabha or the Panchayat to the successor Pradhan or Panch or person referred to in that sub-section, the Executive Officer of the Panchayat Samiti shall apply to a Magistrate of the first class within whose jurisdiction the Sabha area is situated for securing from such person such records, registers and other property.

(3) On receiving an application under sub-section (2), the Magistrate may, by a warrant, authorise any police officer not below the rank of Sub-Inspector to enter and search any place where such records and registers and other property are kept or are believed to be kept and to seize them; and the records, the registers and property so seized shall be handed over to the successor Pradhan or the Panch or the person authorised by the Deputy Commissioner, as the case may be.

(4) Whoever wilfully evades under this section the handing over of the prescribed records and registers or other property belonging to or vested in the Sabha or the Panchayat shall, on conviction by a Magistrate of the first class, be punishable with imprisonment which may extend to six months, or with fine, or with both, notwithstanding anything to the contrary contained in this Act.

(5) The Magistrate of the first class shall not take cognizance of an offence under this section save on a complaint made by the Executive Officer

of the Panchayat Samiti or such other officer as may be authorised in this behalf by the Government.

Appoint-
ment of
Secretary
of Gram
Panchayat.

15. (1) There shall be a Secretary for a Gram Panchayat or a group of Gram Panchayats who shall be appointed by the prescribed authority in the manner prescribed:

Provided that any person appointed as a Secretary of any Gram Panchayat or a group of Gram Panchayats before the commencement of this Act, shall be deemed to have been appointed by the prescribed authority.

(2) The remuneration, allowances and other matters relating to service conditions of Panchayat Secretaries shall be such as may be prescribed.

(3) It shall be the duty of the Secretary, under the general supervision of the Pradhan, to assist the Pradhan or Up-Pradhan or the Gram Panchayat or Gram Panchayats, as the case may be, in the discharge of their functions under this Act or under any other law for the time being in force.

Employ-
ment of
other
servants.

16. (1) Subject to such rules as may be prescribed, the Gram Panchayat may employ such other servants as are considered necessary for carrying out the duties imposed by this Act and may suspend, dismiss or otherwise punish such servants.

(2) A Gram Panchayat shall pay the remuneration to such servants out of the Sabha fund.

Provident
fund and
gratuity for
servants.

17. A Gram Panchayat may, in accordance with rules made under this Act:—

- (a) establish and maintain a provident fund on behalf of its servants; and
- (b) grant a gratuity to any servant subject to the previous approval of the prescribed authority.

Adminis-
trative
duties.

18. (1) Subject to such rules as may be prescribed by the Government, it shall be the duty of the Gram Panchayat within the limits of the funds at its disposal, to make arrangements for carrying out the requirements of the Sabha area in respect of the following matters including all subsidiary works and buildings connected therewith:—

- (a) any public place including its sanitation and drains;
- (b) wells, water pumps, *bowlies*, springs, ponds and tanks for the supply of water for drinking, washing and bathing;
- (c) burial and cremation grounds;
- (d) the lighting of public places;
- (e) building for the accommodation of travellers;
- (f) pounds for animals;
- (g) the relief of the poor;
- (h) public health and sanitation;
- (i) the organisation and celebrations of public festivals;
- (j) the improvement of the breeds of animals used for agricultural or domestic purposes;
- (k) public gardens, play grounds, establishment and maintenance of recreation parks, organisation of games and sports, supply of sports materials and holding of tournaments;
- (l) libraries and reading rooms;
- (m) the voluntary registration of the sales of cattle, camels, and horses;
- (n) the development of agriculture and village industries, and the destruction of weeds and pests;

- (o) starting and maintaining a grain fund for the cultivators and lending them seed for sowing purposes on such conditions as the Gram Panchayat may approve;
 - (p) the construction, repair, and maintenance of public places and buildings of public utility;
 - (q) allotment of places for preparation and conservation of manure;
 - (r) construction and maintenance of culverts and bridges;
 - (s) the laying out of new roads and path ways and maintenance of existing ones;
 - (t) framing and carrying out schemes for the improved methods of cultivation and management of land to increase production;
 - (u) supply of water for domestic use and for cattle;
 - (v) the organisation of young farmers' club and mahila mandal for the organisation of games and sports and execution of developmental, social and cultural works in the Sabha area;
 - (w) planning and preservation of trees;
 - (x) measures to promote the moral, social and material well-being or convenience of the inhabitants of the Sabha area;
 - (y) promotion of pisciculture;
 - (z) community listening;
 - (zz) organising of village voluntary force for watch and ward and for assisting the Gram Panchayat in the discharge of its functions.
- (2) Subject to such exceptions as Government may, by general or special order, make, a Gram Panchayat may, and shall, if Government so directs or prescribes, make provisions for—

- (a) the establishment, maintenance and management of maternity and child welfare centres and the construction and repair of all buildings connected therewith;
- (b) medical relief and first-aid;
- (c) the promotion of agricultural credit and of measures including establishment of provision and implement stores and credit centres to relieve rural indebtedness and poverty;
- (d) establishment and maintenance of first-aid centres for animals;
- (e) relief against famine or other calamity;
- (f) providing such educational facilities as may be deemed necessary and desirable;
- (g) registration of births, deaths and marriages; and
- (h) any other matter which the Government may declare to be fit and proper to be taken under the control and administration of the Gram Panchayat:

Provided that nothing in this section shall be deemed to impose any duty or confer any power on the Gram Panchayat with respect to any matter which is under the direct administrative control of any department of the Government or local authority, unless such duty or power has been transferred or delegated to the Gram Panchayat by order of the Government or, as the case may be, of the local authority:

Provided further that where the Government makes any such direction, the Government shall from time to time allot to the Panchayat such funds, or place at the disposal of the Gram Panchayat such sources of income, as it may deem sufficient.

(3) It shall be the duty of the Gram Panchayat within the Sabha area to perform such duties of village headman in connection with village watchmen as the Government may prescribe.

Power to
require
removal of
encroach-
ments and
nuisance.

19. (1) A Gram Panchayat, on receiving a report or other information and on taking such evidence, if any, as it thinks fit, may make a conditional order requiring within a time to be fixed in the order;—

(a) the owner or the occupier of any building or land;—

(i) to remove any encroachment on a public street, place or drain;

(ii) to close, remove, alter, repair, cleanse, disinfect or put in good order any latrine, urinal, water closet, drain, cesspool or other receptacle for filth, sullage-water, rubbish or refuse or to remove or alter any door or trap or construct any drain for any such latrine, urinal or water closet which opens on to a street, drain, or to shut off such latrine, urinal or water closet by a sufficient roof and wall or fence from the view of persons passing by or dwelling in the neighbourhood;

(iii) to cleanse, repair, cover, fill up, drain off, deepen or to remove water from a private well, tank, reservoir, pool, pit, ditch, depression or excavation therein which may appear to the Gram Panchayat to be injurious to health or offensive to the neighbourhood;

(iv) to remove any dirt, dung, nightsoil, manure or any noxious or offensive matter therefrom and to cleanse the land or building;

(b) the owner of any wall or building which is deemed by the Gram Panchayat to be in any way dangerous, to remove or repair such wall or building;

(c) the owner or occupier of any building or property to keep his building or property in a sanitary state;

(d) the owner of any dog or other animal suffering or reasonably suspected to be suffering from rabies or which is dangerous, to destroy or confine or cause to be confined such dog or animal;

(e) the owner or occupier of any agricultural land to destroy harmful weeds from such land;

(f) the owner or occupier concerned to reclaim an unhealthy place;

(g) the owner or occupier of any building or land to maintain in proper repair the level and surface of any road or street passing in front of the building or through his land;

(h) the owner or person in-charge of a private water channel to keep it in a state of reasonable repair;

or, if he objects so to do, to appear before it, at a time and place to be fixed by the order, and to move to have the order set aside or modified in the manner hereinafter provided. If he does not perform such act or appear and show cause, the order shall be made absolute. If he appears and shows cause against the order, the Gram Panchayat shall take evidence and if it is satisfied that the order is not reasonable and proper, no further proceedings shall be taken in the case. If it is not so satisfied, the order shall be made absolute.

(2) If such act is not performed within the time fixed, the Gram Panchayat may cause it to be performed and may recover the costs of performing it from such person in the prescribed manner.

(3) Any person aggrieved by an order under sub-section (1) may file an appeal within thirty days of the passing of such order before the Deputy Commissioner who after holding such enquiry as he may deem fit, may set aside, modify or confirm the said order and his decision thereon shall be final.

20. A Gram Panchayat may by general order to be published in the manner prescribed—

Power to
make general
orders.

- (a) prohibit the use of water of a well, pond or other excavation suspected to be dangerous to the public health;
- (b) regulate or prohibit the watering of cattle or bathing or washing at or near, wells, ponds or other excavations, reserved for drinking water;
- (c) regulate or prohibit the steeping of hemp or any other plant in or near ponds or other excavations within two hundred and twenty metres of the residential area of a village;
- (d) regulate or prohibit the dyeing or tanning of skins within four hundred and forty metres of the residential area of a village:

Provided that where the dyeing or tanning of skins was so practised at the time of the establishment of the Gram Panchayat under this Act, it shall not be prohibited unless the Gram Panchayat provides reasonable facilities for practising it outside the four hundred and forty metres limits;

- (e) regulate or prohibit the excavation of earth or stone or other materials within two hundred and twenty metres of the residential area of a village:

Provided that nothing shall be done under this clause to prevent excavations meant to be filled by the foundation of buildings or other structures;

- (f) regulate or prohibit the establishment of brick kilns and charcoal kilns within eight hundred and eighty metres and pottery kilns within two hundred and twenty metres of the residential area of a village:

Provided that where a pottery kiln was working at the time of the establishment of Gram Panchayat under this Act, it shall not be prohibited unless the Gram Panchayat provides reasonable facilities for practising it outside the two hundred and twenty metres limits;

- (g) direct that the carcasses of all animals dying within the village, except animals slaughtered for consumption shall not be disposed of within a radius of four hundred and forty metres of the residential area of the village:

Provided that nothing shall be done under this clause to interfere with the legal rights of any person;

- (h) regulate the construction of new buildings or the extension or alterations of any existing building or the abadi;
- (i) regulate with the previous permission of the Government, the parking of public vehicles;
- (j) regulate such matters as may be necessary for the general protection of standing trees and trees on common land and the planting of such trees;
- (k) regulate the observance of sanitation and taking curative and preventive measures to remove and prevent the spread of epidemics;
- (l) regulate the maintenance of water courses meant for irrigation purposes;
- (m) regulate the killing of stray dogs;
- (n) regulate the slaughter of animals;
- (o) prohibit beggary;
- (p) direct the taking of measures for the prevention of water-logging;

- (g) regulate the flaying and disposal of dead animals;
- (r) prohibit the sale of harmful eatables within the Sabha area; and
- (s) regulate offensive and dangerous trades or practices.

Control on
erection of
buildings.

21. (1) The Gram Panchayat, after preparing a model plan for the village which has been approved by the Gram Sabha and the prescribed authority, by written order, may—

- (a) direct that before erecting, re-erecting or adding to a building, wall, or a platform every person shall present an application to the Gram Panchayat and that no building, wall or platform shall be erected, re-erected or added to in conflict with the model plan or in advance of an alignment to be specified on land demarcated by the Gram Panchayat; and
- (b) specify the space which shall intervene between any new or enlarged building and the building next adjacent or any road in the village.

(2) The Gram Panchayat shall have the power to modify, return for modification or reject the proposed plan for erection, re-erection or addition to a building, wall, or platform.

(3) Where any building, wall or platform has been erected, re-erected or added to in contravention of any order passed under sub-section (1), the Pradhan may apply to the Sub-Divisional Officer and the Sub-Divisional Officer may make an order—

- (i) directing that the work done or so much of the same as has been executed in contravention of the order passed under sub-section (1) shall be demolished by the owner of the building, wall or platform or that it shall be altered by him to the satisfaction of the Gram Panchayat within such time as may be fixed by the Sub-Divisional Officer; or
- (ii) directing that the work done or so much of the same as has been executed in contravention of the order passed under sub-section (1) shall be demolished or altered by the Gram Panchayat at the expense of the owner within such time as may be fixed by the Sub-Divisional Officer:

Provided that the Sub-Divisional Officer shall not make any such order without giving the owner full opportunity of adducing evidence and of being heard.

(4) If any person to whom a direction to demolish or alter any building, wall or platform, is given under clause (i) of sub-section (3) fails to obey the same, he shall be liable to fine which may extend in the case of masonry building, wall or platform to twenty-five rupees and when the failure is a continuing one, to further fine which may extend, in the case of a masonry building, wall or platform, to five rupees each day on which the failure continues, provided that the recurring penalty shall not exceed the sum of five hundred rupees.

Penalty for
disobedi-
ence of a
special or
general
order of
the Pan-
chayat.

22. Any person who disobeys an order of the Gram Panchayat made under sections 19 and 20 shall be liable to penalty which shall be imposed by the Gram Panchayat and may extend to twenty-five rupees; and if the breach is a continuing breach, with further penalty which may extend to one rupee for every day after the first during which the breach continues:

Provided that the recurring penalty shall not exceed the sum of five hundred rupees. The penalty, if not paid, shall be recovered as arrears of land revenue.

23. (1) On a complaint being made to the Gram Panchayat by any person that a peon, bailiff, constable, head constable, chaukidar, patrol of the Irrigation department, forest guard, patwari, vaccinator, canal overseer, gram sevak, game watcher or any other class of public servants to which the Government may, by notification, extend the provisions of this section has miscondacted himself in his official capacity, the Gram Panchayat may enquire into the matter and submit a report along with the prima-facie evidence to the superior officer whom it may concern, or to the Deputy Commissioner or the Sub-Divisional Officer as the case may be.

Power to enquire and make report about misconduct of petty officials.

The authority shall, after such further enquiry as may be required, take suitable action and inform the Gram Panchayat and the Director of the result:

Provided that nothing in this section shall be construed as empowering the Gram Panchayat to summon any such official or to exercise control. disciplinary or otherwise, over them.

(2) On the report being made by any person that a patwari, chaukidar, gram sevak, forest guard or any other class of public servants to which the Government may by notification extend the provisions of this sub-section, has failed to perform any duty imposed upon him by any laws or rules, the Gram Panchayat may, by notice fixing a reasonable period, require him to perform the duty and, on his failure to do so, shall report the matter to the superior officer whom it may concern, or to the Deputy Commissioner or the Sub-Divisional Officer as the case may be. Result of the action taken thereon shall be communicated to the Gram Panchayat and the Director by the department concerned.

24. A Gram Panchayat may, notwithstanding any law to the contrary, in respect of any area within its jurisdiction, enter into contract with the Government or a local body to collect land revenue or any taxes or dues payable to the Government or a local body on being allowed such collection charges as may be prescribed. A Gram Panchayat may also within its jurisdiction, enter into a contract with all or any of the landowners to collect rent on his or their behalf on being allowed by the landowner such collection charges as may be prescribed.

Power to contract for the collection of taxes and other dues.

25. (1) A Gram Panchayat may, by vote of atleast two-third majority of Panches, with the prior approval of the Government, direct that intoxicating liquor may not be sold at any licensed shop within the local area of the Gram Panchayat.

Power to introduce prohibition.

(2) When a resolution has been passed under sub-section (1), it shall take effect from the first day of April of the year next after such resolution.

(3) Notwithstanding anything contained in any Excise Act and the rules made thereunder, such a resolution will be binding upon the Excise and Taxation Commissioner subject to approval by the Government.

26. (1) A Gram Panchayat may from time to time make bye-laws consistent with this Act and with any rules made thereunder generally for carrying out all or any of the purposes of this Act.

Bye-laws.

(2) In making a bye-law under sub-section (1), the Gram Panchayat may direct that a breach of it shall be punishable with fine, which may extend to ten rupees and if the breach is continuous with a further fine of one rupee for every day after the first during which the breach continues, provided that the recurring penalty shall not exceed five hundred rupees. The penalty shall be recovered in the prescribed manner.

(3) The power conferred under this section to make bye-laws is subject to the condition of previous publication for such time and in such manner

as the Director may determine, and no bye-law shall come into force until it has been confirmed by the Director.

Entry and
Inspection.

27. The Pradhan of the Gram Panchayat, and if authorised in writing in this behalf by the Gram Panchayat, any other Panch may enter into or upon any building or land, with or without assistants or workmen, in order to make an inspection or survey or to execute a work which a Gram Panchayat is authorised by this Act or by rules or bye-laws made thereunder to make or execute, or which it is necessary for a Gram Panchayat for any of the purposes or in pursuance of any of the provisions of this Act or of rules or bye-laws, to make or execute:

Provided that—

- (a) except when it is under this Act otherwise expressly provided no such entry shall be made between sunset and sun-rise;
- (b) sufficient notice shall, in every instance, be given even when any premises can otherwise be entered without notice to enable the inmates of an apartment occupied by women to remove themselves to some part of the premises where their privacy shall not be disturbed; and
- (c) due regard shall always be had to the social and religious usages of the occupants of the premises entered.

Transfer of
forest area
or irriga-
tion work.

28. (1) The Government may, subject to such conditions as may be prescribed, transfer to any Gram Panchayat the management and maintenance of a forest and the Government waste land within and near the boundaries of its jurisdiction.

(2) The Government may, subject to such conditions as may be prescribed, transfer to any Gram Panchayat, the protection of any irrigation work and its extensions and the regulation of the distribution of water from any such work.

(3) The Government may, subject to such conditions as may be prescribed, transfer such public property situated within the jurisdiction to a Gram Sabha, as it may deem fit.

Acquisition
of land.

29. When a Gram Panchayat requires any land to carry out any purpose of this Act, it shall first try to obtain the land by private negotiations and if the parties concerned fail to arrive at an agreement, such Gram Panchayat may make an application, in the prescribed form, to the Collector to acquire the land and the Collector may acquire such land under the provisions of the Land Acquisition Act, 1894.

Explanation.—In this section, the expression, “land” includes benefits to arise out of land, and things attached to the earth or permanently fastened to anything attached to the earth.

Power to
manage
fairs and
markets

30. The Gram Panchayat may start, manage and regulate fairs and markets within the Sabha area in the prescribed manner.

Power over
waterways
etc

31. A Gram Panchayat shall have control of all public streets, waterways, other than canals as defined in any other enactment for the time being in force relating to a canal or a minor canal, situated within its jurisdiction, not being a private street or water-way and not being under the control of the Government or any other authority specified by the Government and may do all things necessary for the maintenance and repair thereof, and may;—

- (a) construct new bridges or culverts;
- (b) divert, discontinue or close any public street, culvert or bridge;
- (c) widen, open, enlarge or otherwise improve a public street, culvert

- or bridge with minimum damage, to the neighbouring fields;
- (d) deepen or otherwise improve waterways;
- (e) with the sanction of the prescribed authority undertake small irrigation projects;
- (f) cut any hedge or branch of any tree projecting on a public street;
- (g) notify the setting apart of any public water course for drinking or culinary purposes, and prohibit bathing, washing of clothes and animals or doing of other acts likely to pollute the course so set apart:

Provided that nothing shall be done under clause (g) which may affect a canal governed by any other enactment for the time being in force relating to a canal or a minor canal, without the prior permission of the authority prescribed by the Government in this behalf.

32. (1) A Gram Panchayat may—

- (a) cause a name to be given to a street by affixing it to or painting it on any building or otherwise in such a position or manner as it may think fit; and
- (b) cause a number to be affixed to or painted on any building in such a position or manner as it may think fit.

(2) The Gram Panchayat may require the owner or occupier of any building to paint thereon a number or itself cause such a number to be painted on any building.

(3) Any person destroying, pulling down, defacing or altering any name plate of a street or number affixed to or painted on a building under sub-sections (1) and (2) or affixing to or painting on a building a different name or number from that affixed or painted by or under the order of the Gram Panchayat, shall, on conviction, be liable to fine which may extend to ten rupees. The fine shall be recoverable in the prescribed manner.

33. A Gram Panchayat shall for the discharge of its administrative functions and other duties appoint functional sub-committees and local committees as the Government may prescribe.

Powers regarding naming of streets and numbering of buildings.

Functional sub-committees and local committees of Gram Panchayat. Joint Committee.

34. Subject to such rules as may be prescribed two or more Gram Sabhas may combine by means of written instrument to appoint a Joint Committee consisting of their representatives for the purpose of transacting any business in which they are jointly interested.

35. (1) If two or more Gram Sabhas are jointly interested in transacting any business, they may delegate to the Joint Committee formed in accordance with the provisions of section 34 or to the Panchayat Samiti, power, with such conditions as they may think proper to impose, to frame any scheme binding on each Gram Sabha as to the construction and maintenance of any joint work and as to the power which may be exercised by any such Sabha in relation to such scheme:

Work to be entrusted to Joint Committee or Panchayat Samiti.

Provided that the Gram Sabhas shall pay the cost of the transaction of the business or the execution of the scheme as to the construction and maintenance of any joint work in such proportion as may be agreed upon in the written instrument above.

(2) The Gram Sabhas may frame and modify rules regarding the continuation of such committee and the term of office of members thereof and the method of conducting proceedings and correspondence.

(3) If any difference of opinion arises between the Gram Sabhas acting under this section it shall be referred to the prescribed authority whose decision shall be final.

Help in maintenance and improvement of schools, hospitals or dispensaries.

Establishment of primary school, hospital, or dispensary for a group of Panchayats.

Assistance to the Government servants.

Power to take over management of institutions etc.

36. (1) The Gram Panchayat shall give such help as may be prescribed to the department concerned in the efficient running of the schools, hospitals and dispensaries in or near its jurisdiction.

(2) The Gram Panchayat may contribute funds to any charitable or national cause or any work or scheme for removing distress and ameliorating the conditions of the people in the rural areas and approved by the Government.

37. Where a group of neighbouring Gram Panchayat areas have no primary school, hospital or dispensary, the Gram Panchayats thereof shall, if so directed by the Government, combine to help in establishing such a school, hospital or Ayurvedic or Unani dispensary and it shall be managed in the manner prescribed:

Provided that the Government shall place such funds, as may be necessary for the purpose, at the disposal of the Gram Panchayats concerned.

38. A Gram Panchayat shall, if so prescribed and so far as practicable, assist any Government servant in the performance of his duties within its area.

39. Subject to rules made under this Act and to conditions agreed upon in writing, a Gram Panchayat may receive from any person any property vested in him, or the execution or maintenance of any work, or the performance of any duty, within its area:

Provided that no work of more than five hundred rupees shall be entrusted to, or undertaken by, a Panchayat except with the previous approval of the Deputy Commissioner.

CHAPTER V

GRAM PANCHAYATS—FINANCE AND TAXATION

Sabha Fund.

40. There shall be a Sabha Fund for each Panchayat and the same shall be utilised for carrying out the duties and obligations imposed on the Panchayat or any committee thereof by this or any other enactment and for such other purpose of the Panchayat as the State Government may prescribe.

Source of Sabha Fund.

41. (1) The following money shall be credited to the Sabha Fund:—

- (a) all grants from the Government or other local authorities;
- (b) the balance if any standing at the credit of the Panchayat at the commencement of this Act;
- (c) the balances and proceeds of all funds which, in the opinion of the Collector, were or are being collected for common secular purposes of the village or villages comprised in the Sabha area;
- (d) all donations;
- (e) all taxes, duties, cesses and fees imposed and realised under this Act;
- (f) the sale proceeds of all dust, dung or refuse collected by the servants of the Panchayats and dead bodies of animals not claimed by any person in accordance with any custom or usage and the trees and other produce of the land vested in the Sabha;
- (g) income derived from the village fisheries which may be under the management of Panchayats;
- (h) income derived from common lands vested in the Panchayat under any law for the time being in force.

(2) The Government shall every year assign to every Panchayat an amount equivalent to twenty per cent of the total annual land revenue realised within the limits of the Sabha area which shall be credited to the Sabha Fund.

42. (1) Subject to rules made under this Act or any order made by the Government in this behalf, a Gram Panchayat shall impose:—

Power of taxation.

(a) a house tax payable by the occupier or, where a house is vacant, by the owner:

Provided that if any house remains vacant for a period of one year or more, it shall be exempted from payment of the house tax;

(b) With the previous approval of the Government, a tax on persons carrying on any profession, trade, calling and employment (other than agriculture) in the Sabha area provided such tax has not been imposed in the Sabha area by any other local authority under any law for the time being in force;

(c) If so authorised by the Government, a duty on transfers of property in the form of a surcharge on the duty imposed by the Indian Stamp Act, 1899, in its application to Himachal Pradesh, on instruments of sale, gift and mortgage with possession of immovable property situated in the Sabha area at such rate as may be fixed by the Government not exceeding two per cent on, as the case may be, the amount of the consideration, the value of the property or the amount secured by the mortgagee, as set forth in the instrument; and

(d) if so authorised by the Government, any other tax, duty or cess which the Legislative Assembly of Himachal Pradesh has power to impose:

Provided that if the Gram Panchayat fails to impose the tax, duty or cess, the Government may take necessary steps to impose it and the tax, duty or cess so imposed shall be deemed to have been imposed by the Gram Panchayat:

Provided further that the Government may at any time withdraw the authorisation under clause (c) or clause (d) whereupon the tax, duty or cess shall cease to be levied.

(2) The following fees may be levied by a Gram Panchayat:—

(i) teh-bazari from the shop-keepers in fairs;

(ii) service fee including fee on cleaning of streets and lighting of streets and sanitation;

(iii) fees for registration of animals sold in the Sabha area; and

(iv) water rate where water is supplied by the Gram Panchayat.

43. A Gram Panchayat may with the consent of the person by whom any tax is payable under this Act, commute the payment into a contribution of labour not exceeding twenty four units of labour in any one year, at such intervals, for such period of time and on such conditions, as may be prescribed.

Commutation of tax by labour.

Explanation.—One unit of labour means four hours of manual labour.

44. (1) Where any person liable to pay any tax imposed under this Act is in default in making a payment of the tax, the Panchayat, which imposed the tax, may in its discretion direct that in addition to the amount of the arrears a sum at the maximum rate of five per cent of the amount of the arrears for every day of default not exceeding that amount shall be recovered from him by way of penalty:

Arrears of tax, penalty and recovery.

Provided that the penalty may, for sufficient reasons to be recorded, be waived by the Panchayat imposing the tax.

(2) The Pradhan of the Panchayat imposing the tax may forward to the Collector a certificate under his signature specifying the amount of the arrears of the tax due from any person liable to pay it, and the Collector on receipt of such certificate shall proceed to recover the amount specified therein as arrears of land revenue.

(3) Any sum imposed by way of penalty shall be recoverable in the manner provided for the recovery of arrears of tax.

Power to borrow.

45. With the previous sanction of the Deputy Commissioner and subject to conditions as may be approved by the Deputy Commissioner, a Gram Sabha may borrow money from any source to carry out any of the purposes of this Act.

Special tax and community service.

46. A Gram Panchayat may, with the previous permission of the Deputy Commissioner impose a special tax on the adult male members of the Panchayat area for the construction of any public work of general utility for the inhabitants of the said area:

Provided that it may exempt any member from payment of this tax in lieu of doing voluntary labour or having it done by another person on his behalf.

Preparation and presentation of budget.

47. (1) (a) Every Gram Panchayat shall prepare and lay before the winter meeting of the Gram Sabha a budget estimate of its income and expenditure for the year commencing on the first day of Baisakh next following.

(b) Every Gram Panchayat shall prepare and lay before the summer meeting of the Gram Sabha its report including the account of its actual and expected receipts and expenditure for the year ending on the last day of Chait preceding such meeting.

(2) The Gram Sabha may pass or refer back to the Gram Panchayat the budget submitted to it for reconsideration with such direction as it may give in the manner prescribed and may likewise pass a recommendatory resolution in respect of the report or of any other matter.

(3) (a) If the budget is referred to the Gram Panchayat for reconsideration as aforesaid, the Pradhan or in his absence the Up-Pradhan shall call an extraordinary general meeting of the Gram Sabha to be held within the fortnight of the said annual meeting and the Gram Panchayat shall re-submit the budget at the said meeting with such modifications as may be necessary in the light of the directions of the Sabha and the Gram Sabha shall then pass the budget in the manner prescribed.

(b) Subject to rules made in this behalf, the budget shall take effect after it has been approved by the prescribed authority.

(4) Accounts of the receipts and expenditure of every Panchayat shall be made up in such form as may be prescribed and the Panchayat shall make arrangements for the examination and audit of accounts by such persons as the Government appoints in this behalf.

CHAPTER VI

GRAM PANCHAYATS—CONTROL

Delegation of powers.

48. (1) The Government may, by notification, delegate all or any of its powers under this Act other than the power to make rules, to a Deputy Commissioner or the Sub-Divisional Officer as the case may be or the Director.

(2) The Director may, with the previous permission of the Government, delegate any of his powers other than those delegated to him to an officer not below the rank of a gazetted officer.

(3) The District Magistrate may delegate any of his powers to the Magistrate of the first class.

(4) The Collector may delegate any of his powers to an Assistant Collector of the first grade.

(5) The Deputy Commissioner or the Sub-Divisional Officer, as the case may be, may delegate any of his powers of control to any officer, provided that the powers specified in sections 54 (1) and 57 shall not be further delegated by the Deputy Commissioner.

49. (1) Notwithstanding anything contained in this Act or the rules made thereunder, the Government may, by notification, direct that by such date as may be specified in the notification, a general election of members of executive committees of all Sabhas, shall be held in the Union territory of Himachal Pradesh and different dates may be appointed for different areas or for different Sabhas or groups thereof.

Power of the Government to hold general election etc.

(2) As soon as a notification is issued under sub-section (1), the Deputy Commissioner and all other authorities concerned shall take all necessary steps for such election under and in accordance with the provisions of this Act and the rules made thereunder.

(3) The power of holding a general election under sub-section (2) may be exercised by the Government from time to time so that a period of not less than five years shall intervene between any two consecutive elections.

50. (1) A Gram Panchayat shall at all reasonable times permit any officer or other person whom the Director or the Deputy Commissioner or the Sub-Divisional Officer by a general or special order, as the case may be, may authorise in this behalf, to have access to all its books, proceedings and records and to enter on and inspect any immovable property occupied by, or any work in progress under the orders of, or any institution controlled by, it.

Access to records of Gram Panchayat.

(2) Nothing contained in sub-section (1) shall affect the right of parties to any proceedings pending before a Panchayat to inspect the records of those proceedings, in the manner prescribed.

51. (1) The Deputy Commissioner or the Sub-Divisional Officer, as the case may be, may by written order suspend the execution of any resolution or order of the Gram Panchayat or prohibit the doing of any act which is about to be done or is being done under the cover of this Act.

Power to suspend the action of Gram Panchayat.

(2) The Deputy Commissioner or the Sub-Divisional Officer, as the case may be, shall forthwith send to the Director a copy of the order with a statement of his reasons for making it, and with such explanation as the Gram Panchayat may offer, and the Director may thereupon confirm, modify or rescind the order.

52. (1) If a Gram Panchayat makes default in the performance of any duty imposed upon it by or under this Act, or under any other law for the time being in force, the Deputy Commissioner, or the Sub-Divisional Officer, as the case may be, may fix a period for the performance thereof, and, in case of default, may appoint any person to perform it and may direct that the expenses arising from, and incidental to, its performance shall be paid by the Gram Panchayat within the time fixed.

Default of duties.

(2) If, in the opinion of the Government, a Gram Panchayat has failed or is otherwise incompetent to administer its property, movable or immovable, in the best interest of the inhabitants of the Sabha area, the prescribed authority if so required by the Government, shall appoint a person, with the previous approval of the Government, to administer such property for and

on behalf of the Gram Panchayat under the general supervision of the prescribed authority:

Provided that the Government may at any time direct the termination of such arrangement and thereupon the administration of the property shall be resumed by the Gram Panchayat.

(3) The person appointed under sub-section (2) shall exercise all such powers of a Gram Panchayat under this Act or under any other law for the time being in force as may be necessary for the management of the property and shall be entitled to receive such remuneration as may be fixed by the prescribed authority with the approval of the Government.

(4) The income from the management of the property shall be credited to the Sabha Fund and all expenses arising from and incidental to the administration of such property, including the remuneration payable to the person appointed under sub-section (2), shall be met out of the Sabha Fund.

(5) If the expenses referred to in sub-section (1) or sub-section (4) are not paid, the Deputy Commissioner or the Sub-Divisional Officer, as the case may be, may make an order directing the person having custody of the Sabha Fund to make the payment in whole or in part as may be possible from such balance and if such person does not comply with the order, recover the amount from him.

The Government may call for proceedings.

53. (1) The Government may call for and examine the record of proceedings of any Gram Panchayat for the purposes of satisfying itself as to the legality or propriety of any executive order passed therein and may confirm, modify or rescind the order.

(2) The Government may, at any time, call for and examine the record of any executive order made under this Act for the purpose of satisfying itself as to the legality and propriety of such order and may confirm, modify or rescind such order.

Suspension and removal of Panches of Gram Panchayat.

54. (1) The State Government or the Deputy Commissioner may, during the course of an enquiry or, if the State Government or the Deputy Commissioner so thinks proper, for any reason to be recorded in writing, otherwise, suspend a Panch in the prescribed manner for any of the reasons for which he can be removed, and debar him from taking part in any act or proceedings of the said body during that period and order him to hand over the records, money or any property of the said body to the persons authorised in this behalf.

(2) The Government may, after such enquiry, as it may deem fit, remove any Panch;—

- (a) on any of the grounds mentioned in sub-section (5) of section 9;
- (b) who refuses to act, or becomes incapable of acting, or is adjudged an insolvent;
- (c) who, without reasonable cause, absents himself for more than two consecutive months from the meetings of the Gram Panchayat;
- (d) who in the opinion of the Government has been guilty of misconduct in the discharge of his duties.

Explanation.—The expression “misconduct” in clause (d) includes the failure of the Pradhan, without sufficient cause, to supply a copy of the order of the Gram Panchayat in an administrative case decided by it, within two weeks from the receipt of a valid application therefor.

(3) A person who has been removed under sub-section (2) may be disqualified for re-election for such period not exceeding five years as the Government may fix.

(4) The Government may at any time revise, rescind or modify any order passed by it under sub-sections (1), (2) and (3) or by the Deputy Commissioner under sub-section (1).

55. (1) If, in the opinion of the Government, a Gram Panchayat is incompetent to perform or persistently makes default in the performance of a duty imposed on it by or under this or any other Act or exceeds or abuses its powers or should there be any other reasonable cause which, in the opinion of the Government, necessitates the supersession of the body, the Government may, by notification, supersede it.

Supersession of Gram Panchayat and consequences thereof.

(2) On the supersession of a body under sub-section (1), the following consequences shall ensue:—

- (a) all members of the body shall, from the date of notification, vacate their seats;
- (b) the funds and other property, if any, vested in the body, shall be disposed of in such manner as the Government may direct.

56. The Government may, at any time, establish another such body in the place of the one so superseded under section 55 in accordance with the provisions of this Act.

Establishment of a new Panchayat in place of one superseded under section 55.

57. Notwithstanding anything contained in section 54, the State Government or the Deputy Commissioner may suspend and the Government may remove a Panch on ground of any dishonest act committed by such Panch during the period of five years preceding the date from which he assumed office as a Panch.

Suspension and removal of Panches under section 54.

58. (1) Every member of the Gram Panchayat or any joint committee or any other committee constituted under this Act shall be liable for the loss, waste or mis-application of any money, property belonging to the Gram Panchayat, if such loss, waste or mis-application is a direct consequence of his neglect or misconduct while a member of the Panchayat, joint committee or other committee and a suit for compensation may be instituted against him by the Panchayat, of which he is a member, with the previous sanction of the prescribed authority.

Penalty for causing loss, waste, or mis-application of money or property of the Gram Panchayat.

(2) If the prescribed authority sanctions the institution of a suit under sub-section (1) or refuses to grant the sanction, the member concerned or the Gram Panchayat, as the case may be, may within thirty days of such sanction or refusal, appeal to the State Government or prescribed appellate authority against the said sanction or refusal.

(3) The State Government may institute a suit mentioned in sub-section (1) on its own initiative.

59. (1) Whoever removes, displaces or makes an alteration in or otherwise interferes with any pavement, gutter or other material of a public street or any fence, wall or post thereof, or a lamp post or bracket, direction post, stand post, hydrant, or other such property of the Gram Sabha without the written sanction of the Gram Panchayat or other lawful authority, shall be punishable with fine which may extend to ten rupees.

Penalty for tampering with the Panchayat's property.

(2) If, through any act, neglect, or default on his part, a person has incurred a penalty imposed by sub-section (1) and has caused any damage

to the property of the Gram Sabha, the person incurring such penalty shall be liable to make good such damage as well as to pay such penalty, and the damages may be assessed in the prescribed manner by the prescribed authority and shall be recoverable from the offender as arrears of land revenue.

Power of the State Government to make rules.

60. The State Government may, subject to the condition of previous publication, by notification, in the Official Gazette, make rules consistent with this Act to carry out the purposes of this Act in relation to any matter concerning Gram Panchayats.

CHAPTER VII

CONSTITUTION OF PANCHAYAT SAMITIS AND CONDUCT OF THEIR BUSINESS

Power to declare constitution of Panchayat Samiti for blocks

61. (1) The Government may, by notification, direct that, with effect from such date as may be specified in the notification, there shall be constituted Panchayat Samitis for every block in a district.

(2) Every Panchayat Samiti shall, by the name of block for which it is constituted, be a body-corporate having perpetual succession and a common seal with power to acquire, hold and dispose of property and to contract and shall, by the said name, sue or be sued.

(3) If, after a Panchayat Samiti is constituted for a block under sub-section (1), the block is redelimited, the Government may reconstitute a Panchayat Samiti for the redelimited block under the provisions of that sub-section.

Area of jurisdiction of Panchayat Samitis.

62. A Panchayat Samiti shall have authority throughout the block for which it is constituted:

Provided that it shall not have authority over any part of the block as is for the time being included in a municipality or a cantonment or a notified area, or a small town committee.

Constitution of Panchayat Samitis.

63. The Panchayat Samiti shall consist of the following members:—

(a) primary members to be elected by secret ballot in the manner prescribed by the persons as provided hereunder:—

Twenty members from the block, by the Panches, Up-Pradhans and Pradhans of Gram Panchayats in the block from amongst themselves;

(b) co-opted members to be co-opted by Panchayat Samiti in accordance with the provisions of section 74, comprising:—

(i) two women interested in social work among women and children, if no woman is elected under sub-section (a):

Provided that if only one woman is so elected, then one more woman shall be co-opted;

(ii) four persons belonging to scheduled castes, if no such person is elected under sub-section (a):

Provided that if only one, two or three persons belonging to scheduled castes are elected under sub-section (a), then three, two or one such person respectively shall be co-opted;

(iii) two persons representing the co-operative societies within the jurisdiction of the Panchayat Samiti, elected by the members of such societies for the purposes of this sub-section;

(c) associate members, namely:—

(i) every elected member of the Himachal Pradesh Legislative Assembly representing the constituency of which the block as a whole or any part thereof forms part;

- (ii) such nominated member or members of the Himachal Pradesh Legislative Assembly whose name or names is or are entered as voter/voters in the voters list of Himachal Pradesh Legislative Assembly within the territorial jurisdiction of the Panchayat Samitis:

Provided that an associate member shall not be entitled to vote at, but shall have the right to speak in and otherwise take part in the proceedings of, any meeting of the Panchayat Samiti or its committees;

- (d) *ex-officio* members, namely, the Sub-Divisional Officer, having jurisdiction in the block:

Provided that where there is no sub-division, the Government may appoint such other officer as it thinks fit for being a member till such time as a sub-division is established:

Provided further that an *ex-officio* member shall not be entitled to vote at any meeting of the Panchayat Samiti.

64. No person shall be eligible for election as a primary member if such person—

Disqualifications of candidates for election as primary members.

- (a) is less than twenty-five years of age; or
- (b) is a whole time salaried servant of the Government or the Government of India or the Government of any other State in India, or a local authority; or
- (c) is of unsound mind and stands so declared by a competent court; or
- (d) is an undischarged insolvent; or
- (e) is not a citizen of India or has voluntarily acquired the citizenship of a foreign State or is under acknowledgement of allegiance or adherence to a foreign State; or
- (f) is so disqualified by or under any law made by the Legislative Assembly of Himachal Pradesh; or
- (g) has directly or indirectly any share or interest in any contract with, by or on behalf of, the Panchayat Samiti while owning such share or interest; or
- (h) has been dismissed from the service of the Government or a municipal committee or a Gram Panchayat or any other local authority for misconduct and has been declared to be disqualified and has, within five years from the date fixed for the nomination of candidates, been proscribed from the Government employment; or
- (i) has, at any time, within five years from the date specified for the nomination of candidates, been serving a sentence of imprisonment for an offence involving moral turpitude for not less than one year; or
- (j) is disqualified from membership of a Municipal Committee, Gram Panchayat, Panchayat Samiti, Zila Parishad or any other local authority as a result of his election having been set aside under this Act or under rules made under this Act or any other enactment for the time being in force relating to Municipalities, Panchayats or other local authorities; or
- (k) is disqualified for being elected or co-opted as a member; or
- (l) is a member of Himachal Pradesh Legislative Assembly or either House of Parliament.

- Qualifications of co-opted members.** 65. No person shall be eligible for co-option as a co-opted member unless he is qualified to be elected as a primary member.
- Term of office of member.** 66. The term of office of primary and co-opted members, other than a member elected to fill a casual vacancy, shall be five years:
Provided that an outgoing member shall, unless the Government otherwise directs, continue in office until the election of his successor is notified.
- Co-option by majority vote.** 67. Members shall be co-opted under section 63 (b) (i) and (ii) by Panchayat Samiti by majority vote in the prescribed manner.
- Notification of election etc., and oath of allegiance.** 68. (1) Every election and co-option of a member and the election of the Chairman or Vice-Chairman of a Panchayat Samiti shall be notified by the Deputy Commissioner concerned in the Official Gazette and no member shall enter upon his duties until his election or co-option has been so notified and notwithstanding anything contained in the Indian Oaths Act, 1873 until he has taken or made at a meeting of the Panchayat Samiti, an oath or affirmation of his allegiance in the form specified in Schedule I as member and as an office holder. 10 of 1873
(2) If any such person refuses to take or make such oath or affirmation, his election or co-option, as the case may be, shall be deemed to be invalid and a fresh election or co-option shall take place.
(3) No person whose election or co-option has been deemed to be invalid under this section shall be eligible for election or co-option to any Panchayat Samiti for a period of two years from the date on which he ought to have taken or made such oath or affirmation.
- Resignation of members.** 69. (1) A member may resign his office by notifying, in writing, his intention to do so to the Chairman of the Panchayat Samiti or the Deputy Commissioner:
Provided that where the notice of resignation is not delivered personally to the Chairman or the Deputy Commissioner, the Chairman or the Deputy Commissioner, as the case may be, shall obtain confirmation from the person concerned as to its genuineness.
(2) A resignation confirmed as aforesaid or delivered personally shall take effect on and from the date on which the notice was received.
- Filling of casual vacancies.** 70. (1) When the place of a primary or co-opted member becomes vacant by resignation, death or otherwise, a new member shall be elected or co-opted, as the case may be, in the manner provided in section 63.
(2) A person elected or co-opted under this section to fill a casual vacancy shall hold office until the person whose place he fills would regularly have gone out of office, but shall be eligible for re-election or co-option if otherwise qualified.
- Procedure where no member is elected.** 71. If, at an election to a Panchayat Samiti, the requisite number of primary members is not elected, a fresh election for the remaining number shall be held in the manner prescribed.
- Prohibition of multiple elections.** 72. (1) No person shall stand for election to more than one Panchayat Samiti.
(2) No person elected to a Panchayat Samiti under section 63 (a) shall be co-opted under section 63 (b) and if so co-opted, the co-option shall be invalid for the purposes of clause (b) and fresh co-option shall be held to fill in the vacancy:

Provided that no member of the Himachal Pradesh Legislative Assembly or a member of either House of Parliament shall be eligible for co-option under clause (b) referred to above.

73. (1) The Chairman, Vice-Chairman or a member of a Panchayat Samiti after entering upon his office, shall forthwith cease to be the Chairman, Vice-Chairman or the member, as the case may be, and his office shall become vacant if—

Vacation of
seats.

(a) he becomes subject to any of the disqualifications specified in section 64; or

(b) he absents himself without the permission of the Panchayat Samiti from more than three consecutive ordinary meetings of the Samiti.

(2) If any question, dispute or doubt arises as to whether or not a vacancy has occurred under this section, it may be referred by any member of the Samiti to the Deputy Commissioner concerned, whose decision thereon shall be final.

(3) Pending such decision, the Chairman, Vice-Chairman, or the member of the Panchayat Samiti, as the case may be, shall be deemed to be duly qualified.

74. (1) The Deputy Commissioner concerned, or any gazetted officer appointed by him in this behalf, shall, as soon as possible after notification of election of primary members, call a meeting of such members in the manner prescribed for the purpose of co-opting members in the prescribed manner under clause (b) of section 63. The aforesaid officer shall preside at such meeting.

Co-option
of members.

(2) After the co-option under sub-section (1), the Chairman shall be elected by majority vote in the prescribed manner. Thereafter the meeting will be presided over by the elected Chairman and the Panchayat Samiti shall elect the Vice-Chairman by majority vote, in the prescribed manner:

Provided that if a Pradhan of a Gram Panchayat is elected as Chairman of the Panchayat Samiti, he shall cease to be the Pradhan of the Gram Panchayat from the date of his election as Chairman of the Panchayat Samiti is notified.

75. (1) The term of office of the Chairman and Vice-Chairman of a Panchayat Samiti shall be five years:

Term of
office of
Chairman
and Vice-
Chairman.

Provided that an outgoing Chairman or Vice-Chairman shall, unless the Government otherwise directs, continue to hold office until the election of his successor is notified:

Provided further that the Chairman or Vice-Chairman shall cease to be the Chairman or Vice-Chairman if he ceases to be a member of the Panchayat Samiti or if, by a resolution passed by a majority vote, the Panchayat Samiti decides at a meeting convened in the manner prescribed, that he shall vacate his office. In such case, Panchayat Samiti shall elect a new Chairman or Vice-Chairman, as the case may be, in the same manner as prescribed under section 74:

Provided further that a vote of non-confidence shall not be sponsored against the Chairman of a Panchayat Samiti within one year from the date of his or her taking of oath of such office and provided also that no next vote of non-confidence shall be moved within an interval of one year of the previous non-confidence motion.

(2) An outgoing Chairman or Vice-Chairman shall be re-eligible for election if otherwise qualified.

Resigna-
tion of
Chairman
and Vice-
Chairman.

76. The Chairman or Vice-Chairman of the Panchayat Samiti may resign his office by notifying in writing his intention to do so to the Panchayat Samiti and on such resignation being accepted by the Panchayat Samiti, he shall be deemed to have vacated his office and the new Chairman or Vice-Chairman, as the case may be, shall be elected in the same manner as prescribed under section 74.

Casual
vacancies
in the office
of the
Chairman
and Vice-
Chairman.

77. Upon the occurrence of any vacancy in the office of the Chairman or Vice-Chairman otherwise than in the manner specified in sections 75 and 76, a new Chairman or Vice-Chairman, as the case may be, shall be elected in the manner provided in section 74.

Executive
Officer and
officers of
Panchayat
Samiti and
Secretary
thereof.

78. (1) The Block Development Officer shall be the *ex-officio* Executive Officer of the Panchayat Samiti and shall act in the prescribed manner with regard to the matters entrusted to the Panchayat Samiti under sub-section (2) of section 98 or section 100. The Block Development Officer shall also act as Secretary of the Panchayat Samiti.

(2) The Panchayat Samiti staff shall be under the administrative control of the Secretary of the Panchayat Samiti in the manner prescribed.

(3) The Secretary or any other servant of the Panchayat Samiti shall not acquire directly or indirectly, by himself or through any person, any share or interest in any contract or employment with, by or on behalf of the Panchayat Samiti, other than a share or interest as such Secretary or as such servant of the Panchayat Samiti.

Meetings.

79. A Panchayat Samiti shall ordinarily meet at least six times in each year for the transaction of its business and not more than two months shall be allowed to elapse between any two successive meetings.

Convening
of ordinary
or special
meetings.

80. (1) A meeting of a Panchayat Samiti shall be either ordinary or special.

(2) Any business may be transacted at an ordinary meeting unless required by this Act or the rules made thereunder to be transacted at a special meeting. Except as otherwise provided under this Act, the meetings of the Panchayat Samiti shall be convened by the Chairman and, in his absence by the Vice-Chairman. Notice of every meeting specifying the time and place thereof and the business to be transacted thereat shall be despatched to every member of the Panchayat Samiti and exhibited at the office of the Panchayat Samiti not less than ten clear days before an ordinary meeting and four clear days before a special meeting.

Powers of
Chairman
and Vice-
Chairman
to call
special
meetings.

81. The Chairman, or, in his absence, the Vice-Chairman may whenever he thinks fit, and shall, on requisition made in writing by not less than one-third of the total members of the Panchayat Samiti, convene a special meeting within two weeks of the receipt of the written requisition.

Adjourn-
ments.

82. Any meeting of a Panchayat Samiti may, with the consent of the majority of the members present, be adjourned to any other date; but no business other than that left over at the adjourned meeting shall be transacted at the next following meeting.

Presiding
authority
of the
meeting—
decision by
majority
vote.

83. (1) At every meeting of a Panchayat Samiti, the Chairman, if present, or, in his absence, the Vice-Chairman, and if there be no Chairman or Vice-Chairman present, then such one of its members, as the members may elect, shall preside.

(2) Except as otherwise provided by this Act or the rules made thereunder, all questions coming up before any meeting of a Panchayat Samiti shall

be decided by a majority of votes of the members present and voting and, in case of an equality of votes, the authority presiding at the meeting shall have a second or casting vote:

Provided that in case of equality of votes at the election of the Chairman or the Vice-Chairman under section 74, such authority shall not exercise the casting vote and the result shall be decided by drawing lots.

(3) Notwithstanding anything contained in sub-section (2), no person shall preside over any meeting at which the question of his own election to office is under consideration.

(4) Any matter finally disposed of by a Panchayat Samiti shall not be reconsidered unless the recorded consent of not less than three-fourths of its total members has been obtained thereto or unless the Government, the Director, or the Deputy Commissioner has directed its reconsideration.

84. For the transaction of business at a meeting of a Panchayat Samiti, the quorum shall be—

(a) if it is an ordinary meeting, one-third of its members having right to vote;

(b) if it is a special meeting, one-half of its members having right to vote.

85. No member shall vote on, or take part in, the discussion of any question coming up for consideration at a meeting of a Panchayat Samiti, if the question is one in which, apart from its general application to the public, he has any direct or indirect pecuniary interest.

86. (1) Minutes of the proceedings at each meeting of a Panchayat Samiti shall be drawn up and recorded in a book to be kept for the purpose and shall be signed by the authority presiding at the meeting or of the next ensuing meeting, and shall be published in such manner as the Panchayat Samiti, may, by bye-laws, direct, and shall, at all reasonable times, be open to inspection by any inhabitant of the block.

(2) A copy of every resolution passed at any meeting of a Panchayat Samiti shall, within three days from the date of meeting, be forwarded to the Deputy Commissioner and the Chairman, Zila Parishad concerned.

87. (1) No act done or proceedings taken by a Panchayat Samiti or standing committee or any other committee appointed under this Act shall be questioned on account of any vacancy in membership or any defect in the election or qualification of the Chairman, Vice-Chairman, presiding authority or member or any defect or irregularity of such act or proceeding not affecting the merits of the case.

(2) Until the contrary is proved, every meeting of Panchayat Samiti or standing committee or any other committee shall be deemed to have been duly convened and held and all members, attending the meeting, shall be deemed to have been duly qualified, when the minutes of the meeting have been duly signed in accordance with the provisions of this Act.

CHAPTER VIII EXECUTIVE AUTHORITY AND SERVANTS OF THE PANCHAYAT SAMITI

88. The implementation of the resolutions of the Panchayat Samiti with regard to the matters entrusted to the Panchayat Samiti under sub-section (2) of section 98 or under section 100 wherein the Panchayat Samiti acts as agent of the Government, shall be the responsibility of the Executive Officer and he shall act in the prescribed manner. With regard to other

Quorum.

Disability of members having pecuniary interest.

Records and publication of proceedings.

Defect or irregularity not to vitiate proceedings.

Implementation of the resolutions of the Panchayat Samiti.

matters not specifically entrusted to the Panchayat Samiti under sub-section (2) of section 98 or section 100 and wherein the Panchayat Samiti does not act as agent of the Government, it shall be the responsibility of the Secretary of the Panchayat Samiti to implement its resolutions in the prescribed manner.

Custody of
common
seal.
Employ-
ment.

89. The common seal of the Panchayat Samiti shall remain in the custody of its Secretary.

90. (1) Subject to rules made by the Government, a Panchayat Samiti may employ such servants as it may consider necessary for the efficient performance of the duties imposed upon it by this Act or rules or bye-laws made thereunder or any other law for the time being in force and may—

- (a) fix for them such pay and leave allowance, subject to the prescribed limit, in proportion to the income of the Panchayat Samiti as it may think fit :

Provided that any excess in expenditure over the establishment of the Panchayat Samiti shall require the prior approval of the Government;

- (b) establish and maintain a provident fund or annuity fund on behalf of such servants and may compel any or every such servant to contribute thereto and may supplement such contribution out of the Samiti fund;
- (c) grant them pension or subscribe on their behalf for pension or gratuity:

Provided that—

- (i) the conditions of grant of leave allowance, provident fund, pension, gratuity and annuity shall not be more favourable than those prescribed for persons in the service of the Government;

- (ii) no leave allowance, provident fund, pension, gratuity or annuity granted to a servant shall exceed the sum which, under any general or special order for the time being in force, such servant would be entitled to if his service had been under the Government.

Punishment
and dismis-
sal of
servants.

91. (1) Subject to the right of appeal and revision under section 164, a Panchayat Samiti may suspend, dismiss or otherwise punish its servants other than the Government servants placed at its disposal.

(2) No servant of a Panchayat Samiti shall be dismissed or removed or reduced in rank until he has been given a reasonable opportunity of showing cause against the action proposed to be taken in regard to him:

Provided that this sub-section shall not apply—

- (a) where a person is dismissed or removed or reduced in rank on the ground of conduct which has led to his conviction on a criminal charge; or
- (b) where the Panchayat Samiti or any other authority empowered in this behalf by or under this Act is satisfied that for some reason, to be recorded by the Panchayat Samiti or the said authority in writing, it is not reasonably practicable to give to that person an opportunity of showing cause.

Govern-
ment ser-
vants to be
placed at
the dis-
posal of
Panchayat
Samitis.

92. (1) The Government may by notification place at the disposal of a Panchayat Samiti such of its servants as are required for implementation of the schemes connected therewith and for such other duties and functions as may be assigned to them by the Panchayat Samiti from time to time.

(2) The aforesaid servants shall thereafter be under the administrative control of the Panchayat Samiti in the prescribed manner.

93. The Government Servants Conduct Rules, as amended from time to time, shall apply to the servants of a Panchayat Samiti in so far as they are not inconsistent with the provisions of this Act and the rules made thereunder:

Provided that for the word "Government" and the words "Government servant" wherever they occur in the aforesaid rules, the words, "Panchayat Samiti" and the words "Panchayat Samiti servant", respectively, shall be deemed to have been substituted.

94. (1) No servant of a Panchayat Samiti or a Government servant whose services are placed at its disposal under section 92 shall, in any way, be concerned or interested in any bargain or contract made with the Panchayat Samiti for any of the purposes of this Act.

(2) If any such servant is so concerned, or interested, or under colour of his office or employment, accepts any fee or reward whatsoever other than his proper salary and allowance, and is removed or dismissed from service by competent authority on that account, he shall be debarred from future employment under this Act.

95. Subject to any direction issued by the Government in this behalf, a Panchayat Samiti may require any officer of the Public Works, Education, Medical, Public Health or other department of the Government serving in the block and, with the previous permission of the Deputy Commissioner in the case of an officer of any such department serving in the district in which the area of the Panchayat Samiti concerned is included, to attend any such meeting of such Samiti and tender advice in respect of any matter which concerns the department to which such officer belongs and every such officer shall comply with such requisition.

96. The Government may, if it is satisfied that the appointment of an engineer, a health officer or any other functionary for two or more Panchayat Samitis, would reduce expense or otherwise be for the advantage of the Panchayat Samitis, by order in writing, combine the Samitis, for the purpose of appointing a common engineer or health officer or any other functionary for two or more Panchayat Samitis and such order may make provisions with respect to—

- (a) the mode of appointment and removal of the officer or functionary;
- (b) the proportion in which the salary and expense of the officer or functionary are to be borne by the Panchayat Samitis concerned; and
- (c) any other matter which, in the opinion of the Government, requires regulation for the purposes of this section.

97. (1) Every servant of Panchayat Samiti, or a Government servant placed at its disposal under section 92, every member and every contractor or agent appointed for the collection of tolls and fees shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

(2) The Secretary of the Panchayat Samiti shall exercise control over the servants of the Panchayat Samiti in the prescribed manner.

CHAPTER IX

DUTIES AND POWERS OF PANCHAYAT SAMITIS

98. (1) The Panchayat Samiti may, in the prescribed manner, make arrangements for carrying out the requirements of area under its jurisdiction, in respect of the following matters; namely:—

Government Servants Conduct Rules to apply to servants of Panchayat Samitis.

Servants of Panchayat Samitis are not to be concerned in contracts.

Power to call upon officers to tender advice, etc.

Common service in Panchayat Samitis.

Servants etc., to be public servants.

Duties of Panchayat Samitis.

1. AGRICULTURE

The doing of everything necessary to step up agricultural production and in particular—

- (i) multiplication and distribution of improved seeds;
- (ii) distribution of fertilizers;
- (iii) popularization of improved techniques, methods and practices and improved implements;
- (iv) achieving self-sufficiency in green manure and composting of farm yard manure;
- (v) encouraging fruit and vegetable cultivation;
- (vi) reclamation of land and swamps and conservation of soil;
- (vii) providing credit for agricultural purposes;
- (viii) propagating and assisting in plant protection methods;
- (ix) laying out demonstration plots and working out better methods of farm management;
- (x) bringing more acreage under irrigation by renovating and sinking wells, repairing and digging private tanks and maintaining the Government minor irrigation sources and supply channels;
- (xi) utilising more power for agricultural purposes;
- (xii) exploiting underground water sources by sinking wells, filter points and tubewells;
- (xiii) tree planting;
- (xiv) growing of village forests.

2. ANIMAL HUSBANDRY AND FISHERIES

- (i) upgrading local stock by introducing pedigree breeding bulls and castrating scrub bulls;
- (ii) introducing improved breeds of cattle, sheep, pigs and poultry;
- (iii) controlling contagious diseases by systematic protection;
- (iv) introducing improved fodder and feeds;
- (v) establishing and maintaining of artificial insemination centres, first-aid centres and minor veterinary dispensaries;
- (vi) dairying and milk supply;
- (vii) developing inland fisheries;
- (viii) educating the people about the importance of better cattle for both milk and draught.

3. HEALTH AND RURAL SANITATION

- (i) maintenance and expansion of health services including vaccination and control of epidemics;
- (ii) provision for protected drinking water facilities;
- (iii) dissemination of knowledge regarding family planning;
- (iv) inspection of aushdhalayas, dispensaries, maternity centres and primary health centres;
- (v) carrying out environmental sanitation and health campaigns and educating the public in (a) nutrition, (b) maternity and child health and (c) communicable diseases;
- (vi) popularising smokeless chullahs;
- (vii) anti-malarial measures and destruction of locusts, rats and other pests.

4. COMMUNICATION

Construction, repair and maintenance of inter-village roads and culverts on such roads and other means of communications.

5. SOCIAL EDUCATION

The creation of a new outlook among the people and making them self-reliant, hard working and responsive to community action and in particular,—

- (i) establishment of information, community and recreation centres;
- (ii) establishment of youth organisations, mahila mandals, farmers clubs, villagers clubs and the like;
- (iii) establishment and popularisation of libraries;
- (iv) organisation of watch and ward;
- (v) encouragement of physical and cultural activities;
- (vi) organisation of voluntary sanitary squads;
- (vii) training and utilisation of the services of gram sahayaks;
- (viii) promotion of physical culture by encouragement of games and sports.

6. CO-OPERATION

- (i) Promotion of co-operation by helping in the establishment and strengthening of service co-operatives, industrial, irrigation, farming and other co-operative societies;
- (ii) participation in and assistance to service co-operatives.

7. MISCELLANEOUS

- (i) Development of cottage and small scale industries in order to provide better employment opportunities and to promote village self-sufficiency;
- (ii) management of all property vested in the Panchayat samiti;
- (iii) inspection and maintenance of serais, rest-houses, markets, public parks and gardens and other public institutions;
- (iv) construction, repair and maintenance of schools and all buildings appurtenant thereto, the establishment and management of schools and libraries either wholly or by means of grant-in-aid, the inspection of schools and the establishment of scholarships;
- (v) securing or removing dangerous buildings or places;
- (vi) regulation and control of vehicular traffic on roads other than motor traffic;
- (vii) construction, repair and maintenance of relief works, relief houses and other measures of relief on account of famines, floods, earthquakes and calamities of like nature;
- (viii) management of such public ferries as may be entrusted to the charge of a Panchayat Samiti under section 7-A of the Northern India Ferries Act, 1878, or Himachal Pradesh Ferries Act, 1956;
- (ix) establishment and management of cattle pounds, including, where the Cattle Trespass Act, 1871, is in force, such functions of the Government and the Magistrate of the District under that Act as may be transferred to the Panchayat Samiti by the Government;
- (x) organisation and management of fairs, agricultural shows and industrial exhibitions;
- (xi) encouragement of thrift through small savings and insurance;
- (xii) disposal of unclaimed dead bodies;
- (xiii) management of any property vested in the Government which the Government may entrust to the Panchayat Samiti;
- (xiv) registration of births, deaths and marriages;
- (xv) regulation of offensive and dangerous trades and practices;

(xvi) any other local works or measures likely to promote the health comfort, convenience and interest of the public, or the social and cultural advancement or the economic prosperity of the country; and

(xvii) any other matter which the Government may, generally or in respect of a particular Panchayat Samiti, declare to be fit and appropriate matter to be brought under the control and administration of the Panchayat Samiti.

(2) Notwithstanding anything contained in sub-section (1), the Government may after the commencement of this Act, by a specific order, direct a Panchayat Samiti to provide for and make arrangements for carrying out requirements of the area under its jurisdiction in respect of all or any of the matters enumerated in sub-section (1) or any other matter not set out in sub-section (1).

Entrustment of certain functions by the Government to Panchayat Samitis.

99. (1) The Government may entrust, conditionally or unconditionally, to a Panchayat Samiti functions in relation to any matter to which these executive authority of the Government extends or in respect of functions which have been entrusted to the Government by the Central Government; and the Panchayat Samiti shall be bound to perform such functions.

(2) Where functions are entrusted to a Panchayat Samiti under sub-section (1), the Panchayat Samiti shall, in discharge of such functions, act as an agent of the Government.

(3) Where by virtue of this section powers and duties have been conferred or imposed as agency functions upon a Panchayat Samiti, there shall be paid by the Government to the Panchayat Samiti such sum as may be determined by the Government in respect of any extra cost of administration incurred by the Panchayat Samiti in connection with the exercise of these powers and duties.

(4) In so far as the Panchayat Samiti is required to act under this section it shall be under the general control of, and comply with such particular directions, if any, as may, from time to time, be given to it by the Government or any other authority appointed by the Government in this behalf.

Community development programme.

100. (1) Within the area subject to its authority, a Panchayat Samiti shall act as the advisory and supervisory body in the prescribed manner in relation to the community development programme financed out of funds made available by the Government to the block agency in this behalf but in respect of the matters entrusted to the Panchayat Samiti under sub-section (2) of section 98, the Panchayat Samiti shall be the agent of the Government in relation to the community development programme financed out of funds made available by the Government to the Panchayat Samiti in this behalf.

(2) Where the Government decides to advance loans under the community development programme to persons within the area of Panchayat Samiti, the recommendations of the Panchayat Samiti shall be given due consideration. The Government may also, if it so desires, authorise the Panchayat Samiti to disburse such loans.

Relationship of Panchayat Samitis with Gram Panchayats.

101. (1) A Panchayat Samiti shall, in the manner prescribed, exercise such supervision and control over the performance of all or any of the administrative functions of the Gram Panchayats within its area or any part thereof as may be specified by the Government by an order issued in this behalf and also render such technical and financial assistance as may be

required by the Gram Panchayats within the area of the Panchayat Samiti for the implementation of development schemes which are beyond the powers of such Panchayats to execute.

(2) Subject to such terms as may be agreed upon, a Panchayat Samiti may delegate any of the following duties to a Gram Panchayat, namely—

- (i) any matter under the direct administrative control of the Panchayat Samiti; and
- (ii) the construction, maintenance or improvement of any property under the control or management of the Panchayat Samiti.

102. (1) A Panchayat Samiti may, with the previous approval of the Government from time to time, make, by notification in the Official Gazette, bye-laws consistent with the provisions of this Act and the rules made thereunder, for carrying out all or any of the purposes of this Act, and, without prejudice to the generality of the foregoing power, such bye-laws may make provision for all or any of the following matters, namely—

Bye-laws

- (i) the time and place of the meetings of the Panchayat Samiti and its committees;
- (ii) the manner in which the notice of the meetings and adjourned meetings shall be given;
- (iii) conduct of proceedings at the meetings and the adjournment of meetings;
- (iv) the purposes for which the common seal shall be used;
- (v) persons by whom receipts shall be granted on behalf of the Panchayat Samiti for money received under this Act;
- (vi) the conditions on which registers, documents, resolutions, maps and plans of the Panchayat Samiti may be inspected by the public and copies thereof supplied, and fees payable for such inspection or for supply of such copies;
- (vii) quorum necessary for the transaction of business at the meetings of any committee;
- (viii) any other matter relating to the proceedings of the Panchayat Samiti or standing committees, exclusion of a member of the Panchayat Samiti from a meeting in which any contract, in which he has a pecuniary interest, is under consideration, the holding and regulation of meetings and conduct of debates, the inspection of minute books and supply of copies of minutes to the members or other persons and the fees payable therefor;
- (ix) the exercise by any servant of the Panchayat Samiti of powers conferred upon the Samiti by this or any other Act for the time being in force, and the conditions and limitations subject to which such powers may be exercised;
- (x) the regulating of the appointment, powers and proceedings of standing committees or any consultative committee set up by the Panchayat Samiti;
- (xi) the defining of the limits of, and regulating the use and management of, and for maintaining in a sanitary condition, a fair, agricultural show, or an industrial exhibition;
- (xii) assessment and collection of fees, taxes and cesses imposed under this Act;

- (xiii) licensing and fixation of fees leviable under this Act and the conditions on which licences are to be granted and may be revoked;
- (xiv) maintenance, management and control of all matters defined as duties of the Panchayat Samiti;
- (xv) protection from injury and interference of the property of the Panchayat Samiti or of the Government vested in the Panchayat Samiti;
- (xvi) appointment of persons to register sales of animals in a public market or fair and the fixation of fees leviable by them;
- (xvii) the sale of articles of food and drink;
- (xviii) the registration and licensing of vehicles, other than motor vehicles or bullock carts, and, the conditions in which such licences are to be granted and the regulation of traffic of such vehicles;
- (xix) the protection of roads and streets from damage and encroachments, the protection of public from danger and inconvenience arising from dangerous structures, unfenced, concealed and disused wells, fallen trees and unpiped drains;
- (xx) provision and improvement of pastures and grazing lands;
- (xxi) improvement of breeding of cattle, sheep and goats and prevention of cattle diseases;
- (xxii) cleansing and protection of springs, tanks, ponds, and the like;
- (xxiii) provision and supervision of burial and burning places;
- (xxiv) control of vehicle stands;
- (xxv) destruction of mosquitoes and other anti-malarial measures;
- (xxvi) destruction of rats, locusts and other pests and other anti-plague measures, destruction of dogs and other anti-rabic measures;
- (xxvii) housing improvement such as provision of ventilators and other anti-tuberculosis measures;
- (xxviii) provision of play-fields and recreation grounds and promotion of physical culture;
- (xxix) seizure and disposal of ownerless animals straying within the limits of the Panchayat Samiti;
- (xxx) inspection and proper regulation of encamping grounds, ponds, serais, bakeries, dhabas, tandjors, smokeless chullahs; aerated water factories, ice-factories, flour mills, foodgrain godowns, slaughter-houses, dhobi-ghats, markets and stalls;
- (xxxi) inspection and proper regulation of the premises used as stables, cow-houses or houses or enclosures for sheep, goats or swine; and
- (xxxii) inspection and proper regulation of buildings ordinarily utilised for the residence or treatment of persons suffering from infectious diseases.

(2) Bye-laws made under this section shall be subject to previous publication.

Penalty for infringement of bye-laws.

103. In making any bye-law, a Panchayat Samiti may direct that a breach of the same shall be punishable with fine which may extend to fifty rupees and, in the case of a continuing breach, with a further fine which may extend to five rupees for every day during which the breach is continued after conviction for the first such breach so, however, that it does not exceed in the aggregate five hundred rupees.

Penalty for disobedience of orders of Panchayat Samiti.

104. Whoever disobeys any lawful direction or prohibition given by a Panchayat Samiti by written notice issued by the Secretary or Executive Officer, as the case may be, under any power conferred by this Act or rules made thereunder, or fails to comply with the conditions subject to which any permission was given by the Panchayat Samiti or the Secretary or Executive Officer, as the

case may be, on its behalf under any power so conferred, shall, if the disobedience or omission is not an offence punishable under any other provision of this Act, be punishable with fine which may extend to fifty rupees and, in case of a continuing breach, with a further fine which may extend to five rupees for every day during which the breach is continued after conviction for the first such breach so, however, that it does not exceed in the aggregate five hundred rupees:

Provided that the Panchayat Samiti may at any time before the decision of the case by the competent court compound the offence with the party concerned in the prescribed manner.

105. Every person convicted of an offence under this Act on account of any act or omission, shall, notwithstanding any punishment to which he may have been sentenced for such offence, pay compensation, the amount of which shall be determined by the Magistrate before whom he was so convicted, to the Panchayat Samiti for any damage that may have occurred to any property of the Panchayat Samiti in consequence of such act or omission.

Compensation for damage.

106. Any person wilfully obstructing a Panchayat Samiti or any servant of the Panchayat Samiti or any person authorised by the Panchayat Samiti, in exercise of the powers conferred by this Act, shall be punishable with fine which may extend to fifty rupees.

Penalty for obstruction

107. Unless otherwise expressly provided, no court shall take cognizance of any offence punishable under this Act or any rule or bye-law made thereunder, except on the complaint of or upon information received from the Secretary of the Panchayat Samiti or by the Executive Officer in this behalf, as the case may be.

Prosecution

108. A Panchayat Samiti may pay compensation out of the Samiti fund to any person sustaining damage or injury by reason of the exercise of any of the powers vested in the Panchayat Samiti or its servants under this Act, when such damage or injury is caused by the negligence of the Panchayat Samiti or its servants and the person sustaining the damage or injury is not himself in default in the matter in respect of which the power is exercised.

Payment of compensation.

109. Save as provided in section 129, all sums of money claimable by a Panchayat Samiti under this Act may be recovered, on application to a Magistrate having jurisdiction in the district or any other place where the person from whom the money is claimable may for the time being be resident, by distress or sale of any immovable property within the limits of its jurisdiction belonging to such person. The cost of such proceedings shall be recoverable in the same manner as the said sums of money.

Powers to recover sums of money claimable by Panchayat Samitis.

110. An application made under section 109 shall be in writing and shall be signed by the Secretary or Executive Officer of the Panchayat Samiti, as the case may be, but it shall not be necessary to present it in person.

Presentation of an application under section 109.

111. A Panchayat Samiti may contribute towards any work, measure, institution or service from which the area under the jurisdiction of the Panchayat Samiti benefits although such work, institution or service is undertaken or maintained outside such area, such sums as may appear to the Panchayat Samiti reasonable having regard to the extent of benefits derived therefrom.

Joint works and undertakings.

Acquisition of land or other immovable property.

112. Whenever it is necessary or expedient for any of the purposes of this Act to acquire any land or any other immovable property, a Panchayat Samiti shall acquire such land or property by agreement on such terms and at such rates or price as shall be approved by the Panchayat Samiti either generally or specially in any particular case.

Procedure when acquisition by agreement is not possible.

113. Whenever a Panchayat Samiti is unable under section 112 to acquire by agreement any land or any other immovable property, the Government may, in its discretion, upon the application of the Panchayat Samiti, order proceedings to be taken for acquiring the same on behalf of the Samiti, as if such property or land were needed for a public purpose within the meaning of the Land Acquisition Act, 1894, and on payment by the Panchayat Samiti of the compensation awarded under the said Act and all charges incurred by the Government in connection with the proceedings, such land or property shall vest in the Panchayat Samiti.

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Appointment of standing committees.

114. (1) Every Panchayat Samiti shall appoint out of its own body the following committees, namely:—

- (a) standing committee for finance and taxation;
- (b) standing committee for agricultural production, animal husbandry, minor irrigation, power, communications and works; and
- (c) standing committee for education, social welfare, public health and sanitation, including rural water supply, cottage industries, co-operatives and housing.

(2) The constitution, term of office, duties, procedure and the powers to be exercised by such standing committees shall be such as may be laid down by bye-laws made by the Panchayat Samiti, with the prior approval of the Government.

(3) Notwithstanding anything contained in any bye-law made under sub-section (2), the Chairman of the Panchayat Samiti shall be the Chairman of the standing committee for finance and taxation.

Consultative Committees.

115. (1) A Panchayat Samiti may from time to time appoint out of its body such and so many committees consisting of such number of persons and may refer to such committees for enquiry and report or for opinion such special subjects relating to the purpose of this Act as it thinks fit.

(2) For any part of the area of a Panchayat Samiti, it may appoint committees constituted by persons who are voters for the Himachal Pradesh Legislative Assembly and residing within such area, for the purpose of inspection and supervision of any institution under its charge or the execution of any local works or measures carried on by it in such area.

(3) The constitution, term of office, duties and procedure of and powers to be exercised by such committees shall be such as may be laid down by bye-laws made by the Panchayat Samiti.

(4) Notwithstanding anything contained in any bye-law made under sub-section (3), the Panchayat Samiti may, at any time, dissolve a committee constituted under sub-section (2) and may reconstitute any other committee in its place.

CHAPTER X

PANCHAYAT SAMITIS—FINANCE AND TAXATION

116. (1) Except as hereinafter provided all land shall be subject to payment of a rate to be called the "local rate" at such rate of its annual value not exceeding twenty-five per cent as Government may determine from time to time.

Local rate

(2) The Government may, by notification:—

- (a) exempt any land or any class of land from the levy of the local rate; or
- (b) in respect of the whole or any part of the area subject to the authority of a Panchayat Samiti, abolish or reduce or, on the recommendation of the Panchayat Samiti, increase the local rate.

117. The land holder shall be liable for the local rate:

Liability
of local
rate.

Provided that where the land holder pays the land revenue in kind to any assignee of revenue of any village headman, the assignee of revenue, or village headman, shall be liable for the payment of the local rate instead of the land holder, and no demand shall be made by any such assignee, or village headman, on the land holder in respect of the payment of the rate.

118. The proceeds of local rate levied in the area of a Panchayat Samiti may be allotted by the Government to the Panchayat Samiti or panchayats in the jurisdiction of the Panchayat Samiti or both in such proportion as Government may determine:

Appropriation of the
proceeds of
local rate.

Provided that the Government may direct that the whole or any portion of the net proceeds of the local rate levied within the limits of any municipality or cantonment, after deducting the expense of collection, shall be carried to the credit of the Municipal fund or made available for the purpose of public improvement in the cantonment.

119. A Panchayat Samiti shall be deemed to have imposed any tax at the rate at which, immediately before the commencement of this Act, any such tax was lawfully levied until a provision to the contrary is made by the Panchayat Samiti with the previous sanction of the Government.

Saving
regarding
existing
taxation.

120. Subject to the general direction and control of the Government, a Panchayat Samiti may with the previous permission of the Government and in the prescribed manner, impose any tax which the Legislative Assembly of Himachal Pradesh has power to impose under the Constitution of India:

Power of
taxation.

Provided that no tax under this section shall be imposed in respect of any property subject to the local rate.

121. With the previous sanction of the Government and subject to the general direction and control by the Government, a Panchayat Samiti may—

Levy of
fees.

(1) levy fees for the use of or benefits derived from—

- (a) public hospitals, dispensaries, schools, serais, markets, rest-houses and other public institutions;
- (b) the supply, storage and preservation of water for drinking, bathing and agricultural purposes; and
- (c) preservation and reclamation of soil and drainage and reclamation of swamps; and

(2) fix fees at fairs, agricultural shows, and industrial exhibitions held under its authority.

Additional
funds to
be provided
by Govern-
ment.

122. When the control and administration of any matter is, by or under this Act, transferred to a Panchayat Samiti and at the time of such transfer, the cost of that control and administration is defrayed by the Government, the Government shall, from time to time, allot to the Panchayat Samiti such funds or place at its disposal such sources of income as may, in the opinion of the Government, be sufficient for maintaining the efficient control and administration of the said matter.

Local rate or taxes how to be assessed and collected.

123. The Government may, by notification, determine the person by whom the local rate, cess or any tax imposed under this Act shall be assessed and collected and make rules for the assessment and collection of the rate, cess or tax, and direct in what manner persons employed in the assessment or collection thereof shall be remunerated.

Instalments of rates and taxes.

124. The Government may, by notification, direct in how many instalments and at what times any rate, cess or tax leviable under this Act shall be payable:

Provided that every instalment of local rate leviable under this Act shall be payable with an instalment of the land revenue.

Delegation

125. In any local area subject to the authority of a Panchayat Samiti, the Government may, by notification, also delegate to the Panchayat Samiti, subject to such conditions as may be specified in the notification, its powers under section 123 or section 124.

Appeal against assessment and collection.

126. In any matter connected with the assessment and collection of any rate, cess or tax leviable under this Act, an appeal from the order of any person authorised to make assessment or collection shall, within sixty days from the date of such order, lie to the Deputy Commissioner or such officer as may be authorised by the Deputy Commissioner in this behalf whose decision on such appeal shall be final.

Reduction, abolition, remission of and exemption from taxation.

127. The Government may, by notification, and a Panchayat Samiti may, subject to the confirmation by the Government, abolish, reduce or remit any rate, tax, cess or fee imposed under this Act or exempt any person or class of persons, or any property or description of property, wholly or in part, from liability to any such rate, tax, cess or fee and cancel any such reduction, remission or exemption.

Power to lease the collection of fees or tolls and management of fairs, etc.

128. The collection of fees or tolls levied at fairs other than cattle fairs, agricultural shows, industrial exhibitions, markets, tonga stands, ferries or rest houses or the management of such fairs, shows, exhibitions, markets, tonga stands, ferries or rest houses may, with the previous sanction of the Government, be leased by a Panchayat Samiti for a period not exceeding three years, and the lessee and all persons employed by him for the collection of such fees or tolls or for the management of such fairs, shows, exhibitions, markets, tonga stands, ferries or rest houses shall in respect thereof—

- (a) be bound by any orders made by the Panchayat Samiti for their guidance;
- (b) have such powers exercisable by officers of a Panchayat Samiti under this Act as the Panchayat Samiti may, from time to time, confer upon them; and
- (c) be entitled to the same remedies, and subject to the same responsibilities, as if they were employed by the Panchayat Samiti for the collection of fees or tolls or for the management of such fairs, shows, exhibitions, markets, tonga stands, ferries, or rest-houses.

Recovery of rates, taxes etc.

129. All arrears of rates, taxes, cesses and fees imposed under this Act and all arrears of sums due from a contractor on account of the collection of fees and tolls leased under section 128 may be recovered as arrears of land revenue.

130. (1) A tax on professions, trades, callings and employments may be imposed by a Panchayat Samiti with the previous approval of the Government and it shall be deducted in case of persons serving under the Government or any other State Government or Central Government or local authority at the source in such manner as may be specified in the rules made by the Government in this behalf.

Payment
by deduc-
tion at
source.

(2) The amount of tax deducted under sub-section (1) shall be credited to the Samiti fund as soon as may be after it is deducted.

131. There shall be formed for every Panchayat Samiti, a fund to be called the 'Samiti fund' and there shall be placed to the credit thereof—

Samiti fund

- (a) donations, if any, made to the Panchayat Samiti;
- (b) all proceeds of local rate allotted to the Panchayat Samiti;
- (c) the proceeds of all taxes, cesses and fees imposed by the Panchayat Samiti under this Act;
- (d) all funds allotted to the Panchayat Samiti and income arising from all sources of income placed at its disposal;
- (e) all rents and profits accruing from property vested in or managed by the Panchayat Samiti;
- (f) all sums contributed to the fund by the Central Government or any State Government or by any local authority including Gram Panchayat or any private person;
- (g) all sums received by the Panchayat Samiti in the discharge of functions exercised by it under this Act;
- (h) all sums paid by the Government to the Panchayat Samiti to meet expenses for the performance of agency functions;
- (i) the balance (if any) standing to the credit of Samiti fund under the Punjab Panchayat Samitis and Zila Parishads Act, 1961, at the commencement of this Act; and
- (j) the proceeds of all sources of income which the Government may order to be placed at the disposal of the Panchayat Samiti:

Provided that the Government may revoke any order made under clause (j).

132. The Samiti fund shall be vested in the prescribed authority and the balance standing at the credit of the fund shall be kept in Government treasury or sub-treasury or in the bank to which Government treasury business has been made over unless the Government in any case otherwise permits. The Samiti fund shall be operated upon by the prescribed authority in the prescribed manner.

Vesting,
custody and
investment
of Samiti
fund.

(2) Subject to such rules as the Government may make in this behalf, a Panchayat Samiti may, from time to time with the previous sanction of the Deputy Commissioner concerned, invest any portion of the Samiti fund in securities of the Central Government or invest it in such other securities, or place it in such other manner, as the Government may approve in this behalf and, with the previous sanction of the Deputy Commissioner concerned, may vary such investment or placement for another or others of like nature. The income resulting from such securities or placements and the proceeds of the sale of the same shall be credited to the Samiti fund.

133. The Samiti fund shall be applicable in the prescribed manner to the payment, in whole or in part, of the charges and expenses incidental to the several matters specified in section 90 and matters entrusted to the Panchayat Samiti as agent under section 100 or under sub-section (2) of

Application
of Samiti
fund.

section 98 and incurred within the jurisdiction of the Panchayat Samiti and also to the following purposes, namely—

- (a) performance of agency functions entrusted to the Panchayat Samiti under section 99;
- (b) expenses required for the audit of accounts of the Panchayat Samiti;
- (c) cost of the acquisition of land;
- (d) expenses in respect of such portion of the cost of departments for education, public health, agriculture, public works and any other departments as may be held by the Government to be equitably debitable to the Panchayat Samiti in return for the services rendered to the Samiti by those departments; and
- (e) any other expenditure which the Government may declare to be a fit and proper charge on the Samiti fund.

Minimum
balance.

134. Except with the previous sanction of the Government, the actual cash balance of the Samiti fund, excluding investments, the unspent balance of funds of all kinds and receipts from the sale of land and buildings, shall not be permitted at any time to fall below an amount equal to ten per cent of the Samiti's income of the previous financial year excluding sales or maturity of investment and the amounts in suspense accounts:

Provided that the actual cost price of such post office cash certificates held by the Panchayat Samiti and such sums placed by the Samiti in fixed deposit with any bank as are not earmarked for specific purposes, may be reckoned as forming part of the actual cash balance.

Annual
estimates
of income
and expend-
iture.

135. (1) Every Panchayat Samiti shall, on or before a prescribed day in each year, hold a meeting at which the standing committee for finance and taxation shall submit to the Panchayat Samiti an estimate of income and expenditure (hereinafter referred to as the 'budget') of the Samiti for the next financial year in such form and in such manner as may be prescribed.

(2) The Panchayat Samiti shall consider the budget and may approve it with or without modifications. The Samiti budget shall then be sent to the Deputy Commissioner for his approval. The Deputy Commissioner will then consider the budget and if he has any recommendations to make, he will return these estimates to the Panchayat Samiti with such recommendations. The Panchayat Samiti shall thereupon either—

- (a) accept and enforce the recommendations of the Deputy Commissioner;
- (b) if it does not accept the recommendations or a part thereof, repass the budget or the relevant part thereof by majority vote. Thereafter, the budget, with such comments of the Panchayat Samiti, shall be returned to the Deputy Commissioner and thereupon, the Deputy Commissioner, after considering the aforesaid comments, pass orders in regard thereto which shall be final.

Audit of
accounts.

136. Accounts of the receipts and expenditure of every Panchayat Samiti shall be made up in such form as may be prescribed and the Panchayat Samiti shall make arrangements for the examination and audit of the accounts by such persons as the Government appoints in this behalf.

Inspection
of Budget
and
accounts.

137. Every Panchayat Samiti shall cause a copy of its budget sanctioned under section 135 and of account made up under section 136, to be kept at its office; and any member of a Gram Panchayat of the Panchayat Samiti area may, at all reasonable times, inspect any such budget or account without payment of any fee.

138. A statement of the accounts of the Panchayat Samiti for each financial year, showing the income of the Panchayat Samiti under each head of receipt, the charges for establishment, the works undertaken, the sums expended on each work and the balance, if any, of the fund remaining unspent at the end of the year, shall be prepared by the Secretary of the Panchayat Samiti in such form as may be prescribed and an abstract of the same shall be published in the official gazette and in such other manner as the Government may direct.

Publication
of abstract
of accounts.

CHAPTER XI

ZILA PARISHADS—CONSTITUTION, INCORPORATION AND FUNCTIONS

139. (1) The Government may, by notification, direct that, with effect from such date as may be specified in the notification, there shall be constituted a Zila Parishad for every district.

Constitu-
tion and
incorpora-
tion of Zila
Parishads.

(2) Where a district is redelimited, the Government may reconstitute the Zila Parishad for the redelimited district under and in accordance with the provisions of this Act.

(3) Where, in a district, Panchayat Samitis have been constituted for blocks, the Zila Parishad for such district shall consist of the following members:—

- (a) one representative of every Panchayat Samiti in the district to be elected by the Panchayat Samiti by a secret ballot in the manner prescribed;
- (b) the Chairman of every Panchayat Samiti in the district;
- (c) every member of Lok Sabha and every elected member of the Himachal Pradesh Legislative Assembly representing the district or any part thereof for so long as they remain such members;
- (d) every member of the Rajya Sabha and every nominated member of Himachal Pradesh Legislative Assembly and such member shall represent on the Zila Parishad of the district in which he is recorded as a voter in the voters list for Himachal Pradesh Legislative Assembly;
- (e) the Deputy Commissioner of the district:

Provided that a member referred to in clauses (c), (d) and (e) shall not have the right to vote in any meeting of the Zila Parishad but shall have the right to speak;

(f) persons to be co-opted as follows, in the prescribed manner:—

- (i) two women interested in social work among women and children, if no woman becomes member of the Zila Parishad under part (a) and part (b) of this sub-section:

Provided that if only one woman is so returned under part (a) and part (b) of this sub-section, then one more woman shall be co-opted;

- (ii) two persons belonging to scheduled castes, if no such person becomes member of the Zila Parishad under part (a) and part (b) of this sub-section:

Provided that if only one person belonging to scheduled caste is so returned under part (a) and part (b) of this sub-section, then one more person belonging to scheduled caste shall be co-opted.

Power to
call officers
to tender
advice etc.

140. A Zila Parishad may call any officer of a Government department serving in the district to attend any meeting of the Zila Parishad and tender advice in respect of any matter which concerns the department to which such officer belongs and every such officer shall comply with such requisition.

Chairman,
Vice-
Chairman
and
Secretary
of Zila
Parishad.

141. (1) Every Zila Parishad shall have a Chairman and a Vice-Chairman who shall be elected by the members referred to in clauses (a), (b) and (f) of sub-section (3) of section 139 of the Zila Parishad, from amongst themselves in the prescribed manner:

Provided that if a Chairman of the Panchayat Samiti is elected as Chairman of the Zila Parishad, he shall cease to be the Chairman of the Panchayat Samiti from the date his election as Chairman of the Zila Parishad is notified:

Provided further that the Chairman of Zila Parishad so elected shall notwithstanding anything contained in section 139, be deemed to have been elected as an additional member of the Zila Parishad from the Panchayat Samiti concerned for such period as he remained the Chairman of the Zila Parishad.

(2) The Chairman or Vice-Chairman of a Zila Parishad shall cease to be the Chairman or Vice-Chairman if he ceases to be a member of the Zila Parishad or if, by a resolution passed by a majority vote, the Zila Parishad decides at a meeting convened in the manner prescribed, that he shall vacate his office. In such case, the Zila Parishad shall elect a new Chairman or Vice-Chairman, as the case may be, in the same manner as prescribed in sub-section (1) of this section:

Provided that a vote of non-confidence shall not be sponsored against the Chairman of a Zila Parishad within one year from the date of his or her assuming such office and provided also that no next vote of non-confidence shall be moved within an interval of one year of the previous non-confidence motion.

(3) There shall be a Secretary of the Zila Parishad who shall be appointed by the Government in the prescribed manner.

(4) The Secretary shall be under the administrative control of the Deputy Commissioner.

Term
office.

142. (1) The term of office of a member of a Zila Parishad, not being the Chairman of a Panchayat Samiti, shall be five years or the period for which he continues as member of the Panchayat Samiti, whichever is less:

Provided that if he ceases to be a member of the Panchayat Samiti, his place shall be taken for the remaining part of the term of five years by another member elected by the Panchayat Samiti:

Provided further that the Panchayat Samiti may, at any time, after giving notice of a meeting for this purpose and by a majority vote, recall the member from the Zila Parishad.

(2) A member of a Zila Parishad when, appointed by virtue of office, shall, unless and until the Government otherwise directs, continue to be member of the Zila Parishad while he continues to hold that office.

(3) Notwithstanding anything contained in sub-section (1), an outgoing member, Vice-Chairman or Chairman of a Zila Parishad shall, unless the Government otherwise directs, continue in office until the election of his successor is notified.

143. (1) A Zila Parishad shall meet as often as may be necessary:

Meeting
and
quorum.

Provided that not more than three months shall be allowed to elapse between two successive meetings of the Zila Parishad.

(2) One-third of the members of a Zila Parishad actually serving for the time being shall form a quorum at the meeting of the Zila Parishad.

144. (1) Every election and co-option of a member and the election of a Chairman or Vice-Chairman of a Zila Parishad shall be notified by the Deputy Commissioner concerned in the official gazette and no member shall enter upon his duties until his election or co-option has been so notified and notwithstanding anything contained in the Indian Oaths Act, 1873, until he has taken or made, at a meeting of the Zila Parishad, an oath or affirmation of his allegiance in the form specified in Schedule I.

Notifica-
tion of
election
etc., and
oath of
allegiance.

10 of 1873

(2) If any such person refuses to take or make such oath or affirmation, his election or co-option, as the case may be, shall be deemed to be invalid and a fresh election or co-option shall take place.

(3) No person whose election or co-option has been deemed to be invalid under this section shall be eligible for election or co-option to any Zila Parishad for a period of two years from the date on which he ought to have taken or made such oath or affirmation.

145. If the place of an elected or co-opted member of a Zila Parishad becomes vacant by resignation, death, recall or otherwise, a new member shall be elected or co-opted in the manner provided in section 139.

Filling of
casual
vacancy.

146. (1) The Zila Parishad shall—

Duties and
functions
of Zila
Parishad.

- (a) give advice to Panchayat Samitis on its own motion or on the requirement of the Government or at the request of a Panchayat Samiti;
- (b) co-ordinate and consolidate development plans prepared in respect of Panchayat Samitis;
- (c) advise for formulation of plans, projects, schemes or other works common to two or more Panchayat Samitis or blocks in the district;
- (d) exercise and perform such other powers and functions in relation to any development programme as the Government may, by notification, confer on or entrust to it;
- (e) advise the Government on all matters relating to development activities and maintenance of services in the district, whether undertaken by local authorities or the Government;
- (f) advise the Government on the allocation of work among Panchayats and Panchayat Samitis;
- (g) advise the Government on matters concerning the implementation of any statutory or executive order specially referred by the Government to the Zila Parishad; and
- (h) review periodically the progress of development programmes in the district in the prescribed manner with special reference to agricultural production and its allied subjects and to suggest ways and means for improving the same.

(2) A Zila Parishad shall have the authority to call for any information, statement or record from a Panchayat Samiti which shall comply with any such requisition within a reasonable time.

(3) Notwithstanding anything to the contrary in this Act, a Zila Parishad shall, when required by the Government to do so, by an order in writing, exercise such supervision over the performance of all or any of the administrative functions of the Gram Panchayats and the Panchayat Samitis within the district or any part thereof, as may be specified in the said order.

Resignation.

147. (1) A member of a Zila Parishad may resign his office by notifying in writing, his intention to do so to the Chairman of the Zila Parishad or the Deputy Commissioner:

Provided that where the notice of resignation is not delivered personally to the Chairman or the Deputy Commissioner, the Chairman or the Deputy Commissioner, as the case may be, shall obtain confirmation from the person concerned as to its genuineness.

(2) A resignation confirmed as aforesaid or delivered personally shall take effect on and from the date on which the notice was received.

(3) The Chairman or the Vice-Chairman of the Zila Parishad may resign his office by notifying, in writing, his intention to do so to the Zila Parishad, and on such resignation being accepted by the Zila Parishad, he shall be deemed to have vacated his office.

Conduct of business.

148. (1) A Zila Parishad may, by notification in the official gazette, make bye-laws, with the previous approval of the Government, consistent with this Act and rules made thereunder, as to the following matters, namely:—

- (a) its conduct of business;
- (b) division of duties among its members;
- (c) appointment of standing committees, consultative committees and sub-committees and their duties; and
- (d) other prescribed matters.

(2) Bye-laws made under sub-section (1) shall be subject to previous publication.

Application of certain provisions relating to Panchayat Samitis to Zila Parishads.

149. The provisions of sections 73, 87, 114 and 115 shall, as far as may be, apply to a Zila Parishad and the members thereof in the same manner and to the same extent as they apply to a Panchayat Samiti or the members thereof.

Employees of Zila Parishad to be employees of Government and other matters.

150. Notwithstanding the repeal of the Punjab Panchayat Samitis and Zila Parishads Act, 1961,—

- (a) every officer and every employee of every Zila Parishad in the transferred territory and serving under the Zila Parishad immediately before such repeal shall become an officer or other employee of the Government and shall be employed in connection with the administration of the Union territory of Himachal Pradesh with such designation as the Government may determine and shall hold office by the same tenure and at the same remuneration and on the same terms and conditions of service as he would have but for such repeal held the same and shall continue to do so unless and until such tenure, remuneration

and terms and conditions are duly altered by the Government¹:
Provided that,

- (i) the tenure, remuneration and terms and conditions of service of any such officer or other employee shall not be altered to his disadvantage;
- (ii) any service rendered by any such officer or other employee before such repeal shall be deemed to be service rendered in connection with the administration of the Union territory of Himachal Pradesh;
- (iii) the Government may employ any such officer or other employee in the discharge of such functions as it may think proper and every such officer or other employee shall discharge those functions accordingly;
- (b) anything done or any action taken (including any notification, order, scheme, rule, form, notice or bye-law made or issued, any permission granted) under the repealed Act by or under authority of any Zila Parishad referred to in clause (a) shall in so far as it is not inconsistent with the provisions of this Act, continue in force unless and until it is superseded by anything done or any action taken in accordance with law;
- (c) all debts, obligations and liabilities incurred, all contracts entered into and all matters and things engaged to be done by, with or for any Zila Parishad referred to in clause (a), before such repeal shall be deemed to have been incurred, entered into or engaged to be done, in exercise of the executive power of the Union for the purposes of the administration of the Union territory of Himachal Pradesh;
- (d) all assessments, valuation, measurements or divisions made by any Zila Parishad referred to in clause (a) above, shall, in so far as they are not inconsistent with the provisions of this Act, continue in force unless and until they are superseded by any assessment, valuation, measurement or division made by the Government in accordance with law;
- (e) all properties, movable and immovable, and all interests of whatsoever nature and kind, vested in any Zila Parishad referred to in clause (a) above immediately before such repeal shall, with all rights of whatsoever description, used, enjoyed or possessed by that Zila Parishad, vest in the Government for the purpose of the administration of the Union territory of Himachal Pradesh;
- (f) all rates, taxes, cesses, fees, rents, fares and other charges, if any, which immediately before such repeal were being lawfully levied by any Zila Parishad referred to in clause (a) above, shall continue to be levied at the same rate at which they were being levied by the Zila Parishad immediately before such repeal until provision to the contrary is made by law;
- (g) all rates, taxes, cesses, fees, rents, fares and other charges, if any, due to any Zila Parishad referred to in clause (a) above, immediately before such repeal, shall be deemed to be due to the Government in connection with the administration of the Union territory of Himachal Pradesh;
- (h) all suits, prosecutions and other legal proceedings instituted or which might have been instituted by or against any Zila Parishad referred to in clause (a) may be continued or instituted by or against the Government of India.

CHAPTER XII

SUPERVISION OF PANCHAYAT SAMITIS AND ZILA PARISHADS

Supervision
by Director
and Deputy
Commissioner.

151. (1) The Director in the prescribed manner shall have power to:—

- (a) enter on and inspect, or authorise any other person to enter on and inspect, any immovable property within the limits of his jurisdiction, occupied by or vested in any Panchayat Samiti or any work in progress within such limits under the direction of such Panchayat Samiti;
- (b) by order in writing, call and inspect any document which may, for the purposes of this Act, be in the possession or under the control of any Panchayat Samiti or any subordinate authority thereof;
- (c) by order in writing, require any Panchayat Samiti to furnish such statements, accounts, reports or copies of documents as he may think fit;
- (d) record in writing for consideration of any Panchayat Samiti any observations he may wish to make.

(2) Every Panchayat Samiti shall forward to the Deputy Commissioner concerned as soon as may be, a copy of the proceedings of its meetings and of its budget and annual report.

Power to
cancel or
to suspend
resolutions
of
Panchayat
Samitis
and Zila
Parishads.

152. (1) The Government may, by order in writing, cancel any resolution passed by a Panchayat Samiti or Zila Parishad or any standing committee thereof if, in their opinion, such resolution—

- (a) is not legally passed; or
- (b) is in excess or abuse of the powers conferred by or under this Act or any other law; or
- (c) is contrary to the interests of the public or likely to cause waste or damage of Samiti fund or of property of a Panchayat Samiti; or
- (d) on its execution is likely to cause danger to human life, health or safety or is likely to lead to a riot or affray.

(2) (i) If, in the opinion of the Deputy Commissioner, immediate action is necessary to suspend a resolution of a Panchayat Samiti on any of the grounds referred to in clauses (a), (b), (c) and (d) of sub-section (1), he may, by order in writing, suspend the resolution and make a report to the Government who may pass such orders as it may deem fit.

(ii) If, in the opinion of the Director, immediate action is necessary to suspend a resolution of a Zila Parishad on any of the grounds referred to in clauses (a), (b) and (d) of sub-section (1), he may, by order in writing, suspend the resolution and make a report to the Government who may pass such orders as it may deem fit.

(3) The Government may, either *suo motu* or on a representation made by the Panchayat Samiti or the Zila Parishad aggrieved by the order made under sub-section (2), call for the record of the case in which such order was made and pass such order in relation thereto as they may deem fit.

Suspension
and removal
of members.

153. (1) The Government may, during the course of an enquiry or for any reason if it so thinks proper, otherwise, suspend a member, Vice-Chairman or Chairman of a Panchayat Samiti or a member, Vice-Chairman or Chairman of Zila Parishad for any of the reasons for which he can be removed, and debar him from taking part in any act or proceedings of the said body during the enquiry.

(2) The Government may, after such enquiry as it may deem fit, remove any member, Vice-Chairman or Chairman of a Panchayat Samiti or member, Vice-Chairman or Chairman of a Zila Parishad who, in the opinion of the Government, has been guilty of misconduct in the discharge of his duties during his current tenure or any past tenure in such body.

(3) A person who has been removed under sub-section (2) may be disqualified for re-election or co-option for such period not exceeding five years as the Government may fix.

154. If a Panchayat Samiti or Zila Parishad is not competent to perform or persistently makes default in the performance of the duties imposed upon it by or under this or any other Act for the time being in force or exceeds or abuses its powers, the Government may, *suo motu* or on a report received in this behalf, by notification, supersede such Panchayat Samiti or Zila Parishad.

Power of Government to supersede in case of incompetency, persistent default or abuse of power.

155. (1) When a Panchayat Samiti is superseded under section 154, the following consequences shall ensue—

Consequences of supersession.

- (a) all members of the Panchayat Samiti shall, from the date of the notification, vacate their offices;
- (b) all powers and duties of the Panchayat Samiti may, until the Panchayat Samiti is reconstituted, be exercised and performed by such person or persons as the Government may appoint in this behalf; and
- (c) all property vested in the Panchayat Samiti shall, until it is reconstituted, vest in the Government.

(2) When a Zila Parishad is superseded under section 154, all members thereof shall from the date of the notification vacate their offices.

(3) When a Panchayat Samiti or Zila Parishad is superseded under section 154, the Government shall, as soon as may be, constitute another Panchayat Samiti or Zila Parishad in its place.

(4) Any person or persons appointed under clause (b) of sub-section (1) shall be subject to the control of the Government and such other officers as it may direct, and shall be subject to all other restrictions, limitations and conditions imposed by this Act on the Panchayat Samiti.

156. The Government may, by notification, direct that any power exercisable by a municipal committee may, in such circumstances and subject to such conditions and restrictions as may be specified in the notification, be exercised by a Panchayat Samiti in the area or part thereof subject to its jurisdiction.

Power of Government to authorise Panchayat Samitis to exercise certain powers.

157. (1) Every person shall be liable for the loss, waste or misapplication of any money or other property belonging to a Panchayat Samiti, if such loss, waste or misapplication is a direct consequence of his neglect or misconduct while a member of a Panchayat Samiti and any such person, may, after being given an opportunity by notice served in the manner provided for the service of summons in the Code of Civil Procedure, 1908, to show cause by written or oral representation why he should not be required to make good the loss, be surcharged with the amount of such money or the value of such property by the prescribed authority.

Liability of members for loss, etc.

(2) The person against whom an order under sub-section (1) has been made, may, within thirty days of the order, appeal to the Government and the Government may confirm, modify or revoke the surcharge:

Provided that nothing in this section shall be deemed to debar the aggrieved party from seeking his remedy in a civil court against an order made under sub-section (1).

(3) The amount of surcharge shall be recoverable as arrears of land revenue.

(4) Notwithstanding anything contained in this section, no person shall be called upon to show cause why he should not be required to make good any loss after the expiry of five years from the occurrence of the loss, waste or misapplication.

Power to provide for performance of duties in case of default of Panchayat Samitis or Zila Parishads.

158. (1) When the Government, after due enquiry, is satisfied that a Panchayat Samiti has made default in performing any duty imposed upon it by or under this Act, the Government may, by an order in writing, fix the period for the performance of that duty and if it is not performed within the period so fixed, it may appoint some other person to perform the duty and may direct that the expenses of performing it shall be paid, within such time as the Government may fix, by the Panchayat Samiti to that person.

(2) If the expense is not so paid, the Government may make an order directing the persons having the custody of the balance of the Samiti fund to pay the expense or so much thereof, as is, from time to time, possible from that balance in priority to all other charges against the same.

Disputes

159. If any dispute, for the decision of which this Act does not provide, arises between two or more Gram Panchayats, between any Panchayat or Panchayat Samiti, or between two or more Panchayat Samitis, the matter shall be decided by the Deputy Commissioner.

Enquiry into affairs of Panchayat Samitis and Zila Parishads.

160. (1) The Government may, at any time, cause an enquiry to be made by any of its officers into the affairs of a Panchayat Samiti or Zila Parishad in regard to any matter concerning it or in regard to any matter with respect to which the sanction, approval, consent or order of the Government is required by or under this Act.

(2) The officer holding such enquiry shall have the powers of a civil court under the Code of Civil Procedure, 1908, to take evidence and to compel the attendance of witnesses and the production of documents for the purposes of the enquiry.

5 of 1968

Right of officers to attend meetings of Panchayat Samitis and Zila Parishads.

161. Such officers as the Government may, by order, specify shall have the right to speak in and otherwise take part in the proceedings of any meeting of a Panchayat Samiti or Zila Parishad or any committee thereof but shall not, by virtue of this section, be entitled to vote at any such meeting.

Delegation of powers and functions of Government.

162. The Government may, by an order in writing, delegate all or any of its powers and functions under this Act except the power to make rules, also to any person or authority, subject to such restrictions, limitations and conditions as may be specified in such order.

Powers of Government to make rules.

163. (1) The Government may, by notification, in the official gazette make rules for carrying out the provisions of this Act.

(2) All rules made under this section shall be subject to previous publication.

(3) Every rule made under this section or under section 60 or under section 249 shall be laid as soon as may be after it is made, before the Himachal Pradesh Legislative Assembly while it is in session and if, before the expiry of the session in which it is so laid or the session immediately following, the House agrees to make any modification in the rule or the House agrees that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity or anything previously done under that rule.

164. (1) A servant of a Panchayat Samiti aggrieved by an order involving a penalty imposed on him by a Panchayat Samiti may, within the prescribed period, prefer an appeal to the Deputy Commissioner.

Appeal an revision.

(2) Any order passed under sub-section (1) shall be subject to revision by the Government.

165. Any person aggrieved by the refusal, notice or order made by a Panchayat Samiti by virtue of powers exercisable by it under bye-laws framed under clauses (xix), (xxiii), (xxvii), (xxviii), (xxx) and (xxxi) of sub-section (1) of section 102 may appeal, within thirty days from the date, of such refusal, notice or order, to the Deputy Commissioner whose order, subject to the power of revision by the Government, shall be final:

Appeals from order of Panchayat Samitis.

Provided that no such order shall be passed until the appellant and the Panchayat Samiti have been afforded a reasonable opportunity of being heard.

CHAPTER XIII

DISPUTES RELATING TO ELECTIONS

DISPUTES REGARDING ELECTIONS OF PANCHES OF GRAM PANCHAYATS

166. In this chapter, unless the context otherwise requires,—

Definitions.

- (a) 'agent' means any person appointed in writing by a candidate at an election to be his agent for the purposes of his election with the written consent of such person;
- (b) 'candidate' means a person who has been or claims to have been duly nominated as a candidate at an election, and any such person shall be deemed to have been a candidate as from the time when, with the election in prospect, he began to hold himself out as a prospective candidate;
- (c) 'corrupt practice' means any of the practices specified in section 185;
- (d) 'costs' means all costs, charges and expenses of, or incidental to, a trial of an election petition;
- (e) 'election' means an election to fill the office of a Panch;
- (f) 'electoral right' means the right of a person to stand or not to stand as, or to withdraw from being, a candidate or to vote or refrain from voting at an election;
- (g) 'pleader' means any person entitled to appear and plead for another in a civil court and includes an advocate.

167. No election of a Panch of a Gram Panchayat shall be called in question except by an election petition presented in accordance with the provisions of this Chapter.

Election petitions.

168. (1) Any member of the Sabha may, on furnishing the prescribed security in the prescribed manner, present within thirty days of the publication of the result, on one or more of the grounds specified in sub-section (1) of section 180, to the prescribed authority, an election petition in writing against the election of any person as a Panch.

Presentations of petitions.

(2) The election petition shall be deemed to have been presented to the prescribed authority

(a) when it is delivered to the prescribed authority—

(i) by the person making the petition; or

(ii) by a person authorised in writing in this behalf by the person making petition; or

- (b) when it is sent by registered post and is delivered to the prescribed authority.
- Contents of petition.** 169. (1) An election petition—
- (a) shall contain concise statement of the material facts on which the petitioner relies;
 - (b) shall set forth full particulars of any corrupt practice that the petitioner alleges, including as full a statement as possible of the names of the parties alleged to have committed such corrupt practice and the date and place of the commission of each such practice; and
 - (c) shall be signed by the petitioner and verified in the manner laid down in the Code of Civil Procedure, 1908 for the verification of pleadings:
- Provided that where the petitioner alleges any corrupt practice, the petition shall also be accompanied by an affidavit in the prescribed form in support of the allegation of such corrupt practice and the particulars thereof.
- (2) Any schedule or annexure to the petition shall also be signed by the petitioner and verified in the same manner as the petition. 5 of 1908
- Procedure on receiving election petitions.** 170. If the prescribed security is not furnished in the prescribed manner, or the petition is not presented within the period specified in section 168, the prescribed authority shall dismiss the petition:
- Provided that the petition shall not be dismissed without giving the petitioner an opportunity of being heard.
- Power of Deputy Commissioner to withdraw and transfer petitions.** 171. The Deputy Commissioner of the district concerned may, at any stage, after notice to parties and for reasons to be recorded, withdraw any election petition pending before a prescribed authority and transfer it for trial to another prescribed authority within his district; and upon such transfer, that prescribed authority shall proceed with the trial from the stage at which it was withdrawn:
- Provided that such authority may, if it thinks fit, recall and re-examine any of the witnesses already examined.
- Procedure before the prescribed authority.** 172. (1) Subject to the provisions of this Act and of any rules made thereunder, every election petition shall be tried by the prescribed authority, as early as may be, in accordance with the procedure applicable under the Code of Civil Procedure, 1908, to the trial of suits: 5 of 1908
- Provided that the prescribed authority shall have the discretion to refuse for reasons to be recorded in writing to examine any witness or witnesses if it is of the opinion that their evidence is not material for the decision of the petition or that the party tendering such witness or witnesses is doing so on frivolous grounds or with a view to delay the proceedings.
- (2) The provisions of the Indian Evidence Act, 1872 shall, subject to the provisions of this Act, be deemed to apply in all respects to the trial of an election petition. 1 of 1872
- Appearance before prescribed authority.** 173. Any appearance, application or act before the prescribed authority may be made or done by the party in person or by a pleader duly appointed to act on his behalf:
- Provided that it shall be open to the prescribed authority to direct any party to appear in person whenever the prescribed authority considers it necessary.

5 of 1908

174. The prescribed authority shall have the powers which are vested in a court under the Code of Civil Procedure, 1908, when trying a suit in respect of the following matters:—

Power of the prescribed authority.

- (a) discovery and inspections;
- (b) enforcing the attendance of witnesses and requiring the deposit of their expenses;
- (c) compelling the production of documents;
- (d) examining witnesses on oath;
- (e) granting adjournments;
- (f) reception of evidence taken on affidavit; and
- (g) issuing commissions for the examination of witnesses;

and may summon and examine *suo motu* any person whose evidence appears to it to be material, and shall be deemed to be a civil court within the meaning of sections 480 and 482 of the Code of Criminal Procedure, 1898.

5 of 1898

Explanation.—For the purpose of enforcing the attendance of witnesses, the local limits of the jurisdiction of the prescribed authority shall be the limits of the entire Union territory of Himachal Pradesh.

175. Notwithstanding anything contained in any enactment to the contrary, no documents shall be inadmissible in evidence at the trial of an election petition on the ground that it is not duly stamped or registered.

Documentary evidence.

176. No witness or other person shall be required to state for whom he has voted at an election.

Secrecy of voting not to be infringed.

177. (1) No witness shall be excused from answering any question to any matter relevant to a matter in issue in the trial of an election petition upon the ground that the answer to such question may criminate or may tend to criminate him, or that it may expose or may tend to expose him to any penalty or forfeiture:

Answering of criminal questions and certificate of indemnity.

Provided that,—

- (a) a witness who answers truly all questions which he is required to answer shall be entitled to receive a certificate of indemnity from the prescribed authority; and
- (b) an answer given by a witness to a question put by or before the prescribed authority shall not, except in the case of any criminal proceeding for perjury in respect of the evidence, be admissible in evidence against him in any civil or criminal proceeding.

(2) When a certificate of indemnity has been granted to any witness, it may be pleaded by him in any court and shall be a full and complete defence to or upon any charge under chapter IX-A of the Indian Penal Code, 1860 arising out of the matter to which such certificate relates, but it shall not be deemed to relieve him from any disqualification in connection with an election imposed by this Act or any other law.

45 of 1860

178. The reasonable expenses incurred by any person in attending to give evidence may be allowed by the prescribed authority to such person, and shall, unless the prescribed authority otherwise directs, be deemed to be part of the costs.

Expense of witnesses.

179. (1) Where an election petition has not been dismissed under section 170, the prescribed authority shall inquire into the election petition and at the conclusion of the inquiry shall make an order—

Decision of the prescribed authority.

- (a) dismissing the election petition; or
- (b) setting aside the election.

(2) At the time of making an order under sub-section (1), the prescribed authority shall also make an order—

- (a) where any charge is made in the petition of any corrupt practice having been committed at the election, recording—
 - (i) a finding whether any corrupt practice has or has not been proved to have been committed at the election and the nature of that corrupt practice; and
 - (ii) the names of all persons, if any, who have been proved at the trial to have been guilty of any corrupt practice and the nature of that practice; and
- (b) fixing the total amount of costs payable, and specifying the persons by and to whom costs shall be paid;

Provided that a person who is not a party to the petition shall not be named in the order under sub-clause (ii) of clause (a) unless—

- (i) he has been given notice to appear before the prescribed authority and to show cause why he should not be so named; and
- (ii) if he appears in pursuance of the notice, he has been given an opportunity of cross-examining any witness, who has already been examined by the prescribed authority and has given evidence against him, of calling evidence in his defence and of being heard.

Grounds
for setting
aside
elections.

180. (1) If the prescribed authority is of the opinion—

- (a) that on the date of his election the elected person was not qualified, or was disqualified to be elected under this Act; or
- (b) that any corrupt practice has been committed by the elected person or his agent or by any other person with the consent of the elected person or his agent; or
- (c) that any nomination has been improperly rejected; or
- (d) that the result of the election in so far as it concerns the elected person, has been materially affected—
 - (i) by the improper acceptance of any nomination; or
 - (ii) by the improper reception, refusal or rejection of any vote or the reception of any vote which is void; or
- (iii) by any non-compliance with the provisions of this Act or of any rules made under this Act;

the prescribed authority shall set aside the election of the elected person.

(2) When an election has been set aside under sub-section (1), a fresh election shall be held.

Abatement
of election
petitions.

181. An election petition shall abate only on the death of a sole petitioner or of the survivor of several petitioners.

Costs and
payment
thereof out
of security
deposits and
return of
such
deposit.

182. (1) Costs including pleader's fees shall be in the discretion of the prescribed authority.

(2) If in any order as to costs under the provisions of this chapter, there is a direction for payment of costs by any party to any person, such costs shall, if they have not been already paid, be paid in full, or so far as possible, out of the security deposit made by such party under this chapter, on an application made in writing in that behalf, within a period of one year from the date of such order, to the Deputy Commissioner by the person in whose favour the costs have been awarded.

(3) If there is any balance left of the security deposit under this chapter after payment under sub-section (1) of the costs referred to in that sub-section, such balance, or where no costs have been awarded or no application as aforesaid has been made within the said period of one year, the whole of the said security deposit may, on an application made in that behalf in writing to the

Deputy Commissioner by the person by whom the security has been deposited or if such person dies after making such deposit; by the legal representative of such person, be returned to the said person or to his legal representative, as the case may be.

183. Any order as to costs under the provisions of this chapter may be produced before the principal civil court within the local limit of whose jurisdiction any person directed by such order to pay any sums of money has a place of residence or business and such court shall execute the order or cause the same to be executed in the same manner, and by the same procedure, as if it were a decree for the payment of money made by itself in a suit:

Execution of orders as to costs.

Provided that where any such costs or any portion thereof, may be recovered by an application made under sub-section (2) of section 182, no application shall lie under this section within a period of one year from the date of such order unless it is for the recovery of the balance of any costs which has been left unrealised after an application has been made under that sub-section owing to insufficiency of the amount of the security deposit referred to in that sub-section.

184. The corrupt practices specified in section 185 shall entail disqualification for membership of Gram Panchayat for a period of five years counting from the date on which the finding of the prescribed authority as to such practice has been given;

Corrupt practices entailing disqualifications.

Provided that the Government may, for reasons to be recorded, remove the disqualification or reduce the period thereof.

185. The following shall be deemed to be corrupt practices for the purposes of this chapter:—

Corrupt practices

(1) Bribery, that is to say,—

(A) any gift, offer or promise by candidate or his agent or by any other person with the consent of a candidate or his agent of any gratification, to any person whomsoever, with the object, directly or indirectly of inducing—

(a) a person to stand or not to stand as, or to withdraw from being a candidate at an election; or

(b) a member of the Sabha to vote or refrain from voting at an election;

or as a reward to—

(i) a person for having so stood or not stood, or for having withdrawn his candidature; or

(ii) a member of the Sabha for having voted or refrained from voting;

(B) the receipt of, or agreement to receive any gratification, whether as a motive or a reward—

(a) by a person for standing or not standing as, or for withdrawing from being, a candidate; or

(b) by any person whomsoever for himself or any other person for voting or refraining from voting, or inducing or attempting to induce any member of the Sabha to vote or refrain from voting, or any candidate to withdraw his candidature.

Explanation.—For the purposes of this clause, the term 'gratification' is not restricted to pecuniary gratification or gratifications estimable in money and it includes all forms of entertainment and all forms of employment for reward but it does not include the payment of any expenses bonafide incurred at, or for the purpose of, any election.

(2) Undue influence, that is to say, any direct or indirect interference or attempt to interfere on the part of the candidate or his agent, or of any

other person with the consent of the candidate or his agent, with the free exercise of any electoral right:

Provided that—

- (a) without prejudice to the generality of the provisions of this clause, any such person as is referred to therein who—
 - (i) threatens any candidate or a member of the Sabha, or any person in whom a candidate or such member is interested, with injury of any kind including social ostracism and ex-communication or expulsion from any caste or community; or
 - (ii) induces or attempts to induce a candidate or a member of the Sabha to believe that he, or any person in whom he is interested, will become or will be rendered an object of divine displeasure or spiritual censure;

shall be deemed to interfere with the free exercise of the electoral right of such candidate or a member of the Sabha within the meaning of this clause;

- (b) a declaration of public policy, or a promise of public action, or the mere exercise of a legal right without intent to interfere with an electoral right, shall not be deemed to be interference within the meaning of this clause.

(3) The appeal by a candidate or his agent or by any other person with the consent of a candidate or his agent to vote or refrain from voting for any person on the ground of his religion, race, caste, community or language or the use of, or appeal to, religious symbols or the use of, or appeal to, national symbols, such as the national flag or the national emblem, for the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate.

(4) The promotion of, or attempt to promote, feelings of enmity or hatred between different classes of the citizens of India on grounds of religion, race, caste, community, or language, by a candidate or his agent or any other person with the consent of a candidate or his agent for the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate.

(5) The publication by a candidate or his agent or by any other person, with the consent of a candidate or his agent, of any statement of fact which is false and which he either believes to be false or does not believe to be true, in relation to the personal character or conduct of any candidate, or in relation to the candidature, or withdrawal, of any candidate, being a statement reasonably calculated to prejudice the prospects of that candidate's election.

(6) The hiring or procuring, whether on payment or otherwise, of any vehicle by a candidate or his agent or by any other person with the consent of a candidate or his agent, for the conveyance of any member of the Sabha (other than the candidate himself, the members of his family or his agent) to or from any polling station or a place fixed for the poll.

Explanation.—In this clause, the expression 'vehicle' means any vehicle used or capable of being used for the purpose of road transport, whether propelled by mechanical power or otherwise and whether used for drawing other vehicles or otherwise.

(7) The obtaining or procuring or abetting or attempting to obtain or procure by a candidate or his agent, or by any other person with the consent of a candidate or his agent, any assistance (other than the giving of vote) for the furtherance of the prospects of that candidate's election, from any person

in the service of the Government, the Government of India or the Government of any other State or a local authority.

186. Any dispute relating to election of Pradhan or Up-Pradhan of a Gram Panchayat shall be decided by the Deputy Commissioner after taking such evidence as he deems fit and his order thereon shall be final.

Dispute relating to election of Pradhan and Up-Pradhan.

187. (1) Any person who is a voter for the election of a member of a Panchayat Samiti or Zila Parishad may, on furnishing the prescribed security and on such other conditions, as may be prescribed, within twenty days of the date of announcement of the result of an election, present to the prescribed authority, an election petition in writing, against the election of any person as a member, Vice-Chairman or Chairman of the Panchayat Samiti or Zila Parishad concerned.

Disputes relating to elections of members or Vice-Chairman or Chairman of Panchayat Samiti or Zila Parishad.

(2) The prescribed authority may—

(a) if it finds, after such enquiry as it may deem necessary, that a failure of justice has occurred, set aside the said election, and a fresh election shall thereupon be held;

(b) if it finds that the petition is false, frivolous, or vexatious, dismiss the petition and order the security to be forfeited to the Panchayat Samiti or Zila Parishad concerned, as the case may be.

(3) Except as provided in this chapter, the election of a member, Vice-Chairman or Chairman of a Panchayat Samiti or Zila Parishad or a Pradhan or Up-Pradhan of a Gram Panchayat shall not be called in question before any authority or in any court.

CHAPTER XIV

MISCELLANEOUS PROVISIONS REGARDING GRAM PANCHAYAT, PANCHAYAT SAMITI AND ZILA PARISHAD

188. (1) No suit or other legal proceedings in a civil or criminal court shall lie against any Pradhan, Up-Pradhan or Panch of a Gram Panchayat and any Chairman, Vice-Chairman or members of a Panchayat Samiti or Zila Parishad in respect of any act done in good faith under this Act.

Bar to actions.

(2) No civil or revenue suit or proceedings shall lie against any Gram Panchayat, Panchayat Samiti or Zila Parishad in respect of any act done in the discharge of any of its duties imposed under this Act.

189. The Government shall appoint a Director of Panchayati Raj for the entire Union territory of Himachal Pradesh to guide and to supervise and control the activities of the Panchayati Raj institutions as established under this Act. The Government shall also appoint such staff and establishment which may be required to assist the Director and the salaries of the Director and such staff and establishment as well as any other expenses which the Government may incur in carrying this Act into effect shall be defrayed by the Government.

Director of Panchayati Raj.

190. (1) No suit or legal proceedings shall be instituted against any officer or servant of a Gram Panchayat or Panchayat Samiti or any person acting under their direction for anything done under this Act, until the expiration of two months next after a notice in writing, stating the cause of action, the name and place of abode of the intending plaintiff and the relief which he claims, has been, in the case of any aforesaid body

Suit against servants of Panchayats, Panchayat Samitis and Zila Parishads.

delivered or left at its office and in the case of any individual as aforesaid delivered to him at his office or usual place of abode; and the plaint shall contain a statement that such notice has been so delivered.

(2) Every such suit shall be dismissed unless it is instituted within six months from the date of the accrual of the alleged cause of action.

Powers to transfer employees.

191. The power to transfer employees of Panchayats or Panchayat Samitis other than the Government servants if any placed at their disposal shall vest in such authority or authorities as may be prescribed.

Gram Panchayat or Panchayat Samiti to be a local authority.

192. For the removal of doubts, it is hereby declared that a Gram Panchayat or Panchayat Samiti shall be deemed to be a local authority for the purposes of any law for the time being in force.

Payment of honorarium and other allowances.

193. The Chairman of Panchayat Samitis and Zila Parishads may get such honorarium and other allowances as the Government may, from time to time, fix.

CHAPTER XV

THE NYAYA PANCHAYAT

Circle for Nyaya Panchayat.

194. The State Government or the prescribed authority, shall divide a district into circles coterminous with the area of jurisdiction of Gram Panchayats established under section 9 and establish one Nyaya Panchayat in each such circle in the prescribed manner.

Constitution of Nyaya Panchayat and voting for election by secret ballot.

195. (1) Every Gram Panchayat, in the prescribed manner, shall elect a judicial committee to be known as Nyaya Panchayat for each circle, the Panches of Gram Panchayat comprising the electoral roll for such election.

(2) The number of Nyaya Panches in a Nyaya Panchayat including the Sarpanch and Naib-Sarpanch shall be not less than five and not more than seven as may be prescribed in case of each Nyaya Panchayat.

(3) The decision for election of each Nyaya Panch shall be taken by majority vote by the Gram Panchayat. In case of equality of votes, the election shall be decided by drawing lots. The election of Nyaya Panches shall be held by secret ballot.

(4) The Pradhan shall preside over the meeting in which Nyaya Panches are to be elected.

(5) The Gram Panchayat may elect any member of Gram Sabha as a Nyaya Panch provided such person is not otherwise disqualified for being a member of the Gram Sabha.

(6) No Panch shall be eligible for election as a Nyaya Panch and if any Panch wants to contest for election as a Nyaya Panch, he shall first resign from the office of Panch and shall be eligible for such contest only after his resignation has been accepted by the prescribed authority.

(7) Each Nyaya Panchayat shall elect from amongst its Nyaya Panches a Sarpanch and a Naib-Sarpanch by majority vote in the prescribed manner, the meeting for this purpose to be presided over by the prescribed authority.

(8) A Nyaya Panchayat constituted under this section includes a Bench thereof.

196. The term of office of every Nyaya Panch shall be five years from the date of his election.

Term of
Nyaya
Panch.

197. Every Nyaya Panch elected under section 195 shall, as soon as possible after his election, take oath of office in the form in Schedule I.

Oath of
office.

198. A Nyaya Panch may submit his resignation to the prescribed authority who may accept it.

Resignation

199. (1) A Nyaya Panch may be removed at any time by the prescribed authority in the manner and for the reason prescribed, provided that no such Nyaya Panch shall be removed unless he has been given a reasonable opportunity of showing cause against his removal.

Removal

(2) A Nyaya Panch removed under sub-section (1) shall not be re-elected as a Nyaya Panch for a period of five years.

200. No Nyaya Panch or Sarpanch or Naib-Sarpanch shall take part in any case, suit or proceedings to which he or she or his or her near relation, employer or employee or partner in business is a party or in which any of them is personally interested.

Bar for
Nyaya
Panches to
take part
in certain
cases.

Explanation.—‘Near relation’ means father, grand father, father-in-law, maternal or paternal uncle, son, grand son, son-in-law, brother, nephew, brother-in-law, wife, sister, sister’s husband, mother, daughter, mother-in-law, daughter-in-law and husband.

201. If a vacancy in the office of a Nyaya Panch arises by reason of his death, removal or resignation, it shall be filled for the unexpired portion of his term in the manner prescribed and if the Nyaya Panch vacating the office was a Sarpanch, he shall be elected in the manner provided in section 195.

Filling of
casual
vacancies.

5 of 1898

202. (1) Notwithstanding anything contained in the Criminal Procedure Code, 1898, every case instituted under this Act shall be instituted before the Sarpanch of the Nyaya Panchayat of the Gram Sabha area in which the offence was committed:

Territorial
jurisdiction.

Provided that such case may be instituted before such Nyaya Panch as has been authorised by the Sarpanch in his absence to receive complaints in the area in which the offence was committed.

5 of 1908
16 of 1887
15 of 1954

(2) Notwithstanding anything contained in the Civil Procedure Code, 1908, or in the Punjab Tenancy Act, 1887, as in force in the transferred territory or the Himachal Pradesh Abolition of Big Landed Estates and Land Reforms Act, 1953, every suit instituted under this Act shall be instituted before the Sarpanch of the Nyaya Panchayat of the Gram Sabha area in which the defendant or any of the defendants where they are more than one, ordinarily resides or carries on business at the time of the institution of the suit irrespective of the place where the cause of action arose:

Provided that such suits may be instituted before such a Nyaya Panch of the Nyaya Panchayat as has been authorised by the Sarpanch in his absence, to receive plaints in the Gram Sabha area in which the defendant or any of the defendants resides or ordinarily carries on business at the time of the institution of the suit.

17 of 1887
6 of 1954

(3) Notwithstanding anything contained in the Punjab Land Revenue Act, 1887 as in force in the transferred territory or the Himachal Pradesh Land Revenue Act, 1954, every proceeding specified under section 219 shall be transferred by the revenue court concerned

(8) A Nyaya Panchayat constituted under this section includes a Bench thereof.

196. The term of office of every Nyaya Panch shall be five years from the date of his election.

Term of
Nyaya
Panch.

197. Every Nyaya Panch elected under section 195 shall, as soon as possible after his election, take oath of office in the form in Schedule I.

Oath of
office.

198. A Nyaya Panch may submit his resignation to the prescribed authority who may accept it.

Resignation

199. (1) A Nyaya Panch may be removed at any time by the prescribed authority in the manner and for the reason prescribed, provided that no such Nyaya Panch shall be removed unless he has been given a reasonable opportunity of showing cause against his removal.

Removal

(2) A Nyaya Panch removed under sub-section (1) shall not be re-elected as a Nyaya Panch for a period of five years.

200. No Nyaya Panch or Sarpanch or Naib-Sarpanch shall take part in any case, suit or proceedings to which he or she or his or her near relation, employer or employee or partner in business is a party or in which any of them is personally interested.

Bar for
Nyaya
Panches to
take part
in certain
cases.

Explanation.—‘Near relation’ means father, grand father, father-in-law, maternal or paternal uncle, son, grand son, son-in-law, brother, nephew, brother-in-law, wife, sister, sister’s husband, mother, daughter, mother-in-law, daughter-in-law and husband.

201. If a vacancy in the office of a Nyaya Panch arises by reason of his death, removal or resignation, it shall be filled for the unexpired portion of his term in the manner prescribed and if the Nyaya Panch vacating the office was a Sarpanch, he shall be elected in the manner provided in section 195.

Filling of
casual
vacancies.

202. (1) Notwithstanding anything contained in the Criminal Procedure Code, 1898, every case instituted under this Act shall be instituted before the Sarpanch of the Nyaya Panchayat of the Gram Sabha area in which the offence was committed:

Territorial
jurisdiction.

Provided that such case may be instituted before such Nyaya Panch as has been authorised by the Sarpanch in his absence to receive complaints in the area in which the offence was committed.

(2) Notwithstanding anything contained in the Civil Procedure Code, 1908, or in the Punjab Tenancy Act, 1887, as in force in the transferred territory or the Himachal Pradesh Abolition of Big Landed Estates and Land Reforms Act, 1953, every suit instituted under this Act shall be instituted before the Sarpanch of the Nyaya Panchayat of the Gram Sabha area in which the defendant or any of the defendants where they are more than one, ordinarily resides or carries on business at the time of the institution of the suit irrespective of the place where the cause of action arose:

Provided that such suits may be instituted before such a Nyaya Panch of the Nyaya Panchayat as has been authorised by the Sarpanch in his absence, to receive plaints in the Gram Sabha area in which the defendant or any of the defendants resides or ordinarily carries on business at the time of the institution of the suit.

(3) Notwithstanding anything contained in the Punjab Land Revenue Act, 1887 as in force in the transferred territory or the Himachal Pradesh Land Revenue Act, 1954, every proceeding specified under section 219 shall be transferred by the revenue court concerned

to the Nyaya Panchayat within the local area in which the land concerned is situated and the Nyaya Panchayat shall decide such proceeding in the manner prescribed:

Provided that where land is included in the local area of more than one Nyaya Panchayat, the revenue court concerned shall transfer the proceedings to the Nyaya Panchayat within the area of which the greater part of the land is situated.

Offences
cognizable
by Nyaya
Panchayat.

203. (1) Offences mentioned in Schedule II or declared by the State Government to be cognizable by a Nyaya Panchayat, if committed within the jurisdiction of a Nyaya Panchayat, and abetment of and attempts to commit such offences shall be cognizable by such Nyaya Panchayat.

(2) Application for maintenance under section 488 of the Code of Criminal Procedure shall be heard and decided by the Nyaya Panchayat. A Nyaya Panchayat may grant a maintenance allowance not exceeding one hundred rupees per month on such application without prejudice to any other law for the time being in force in this behalf.

5 of 1898

Security for
keeping
peace.

204. (1) Whenever the Sarpanch of the Nyaya Panchayat has reason to apprehend that any person is likely to commit a breach of peace or disturb public tranquillity, he may call upon such person to show cause why he should not execute a bond for an amount not exceeding one hundred rupees with or without sureties for keeping the peace for a period not exceeding thirty days.

(2) The Sarpanch shall, after the issue of such notice, constitute within three days a Bench to deal with the matter.

(3) The Bench may either confirm the order or discharge the notice after hearing such person and such witnesses as he may produce within the time fixed by the Nyaya Panchayat.

Penalties

205. A Nyaya Panchayat may impose a fine not exceeding one hundred rupees but shall not inflict a sentence of imprisonment, either substantive or in default of payment of fine.

Cognizance
of suits.

206. No court shall take cognizance of any case or suit which is cognizable under this Act by a Nyaya Panchayat established for the area to which the suit relates unless an order has been passed under section 238.

Transfer of
criminal
proceedings
to the
Nyaya
Panchayat
in certain
cases.

207. If, at any stage of the proceedings in a criminal case pending before a Magistrate, it appears that the case is triable by a Nyaya Panchayat, he shall at once transfer the case to that Nyaya Panchayat which shall try the case *de novo*.

Summary
disposal of
complaint.

208. A Nyaya Panchayat may dismiss any complaint, if after examining the complainant and taking such evidence as he produces, it is satisfied that the complaint is frivolous, vexatious or untrue.

Return of
complaint.

209. If, at any time, it appears to a Nyaya Panchayat—

- (a) that it has no jurisdiction to try any case before it; or
- (b) that the offence is one for which it cannot award adequate punishment; or
- (c) that the case is of such a nature or complexity that it should be tried by a regular court, it shall return the complaint to the complainant directing him to file it before the Magistrate having jurisdiction to try such case.

210. No Nyaya Panchayat shall take cognizance of any offence where the accused—

Certain persons not to be tried by the Nyaya Panchayat.

45 of 1860

5 of 1898

- (a) has been previously convicted of an offence punishable with imprisonment of either description for a term of three years or more; or
- (b) has been previously fined under section 379 of the Indian Penal Code by any Nyaya Panchayat; or
- (c) has been bound over to be of good behaviour under section 109 or 110 of the Code of Criminal Procedure, 1898; or
- (d) has been previously convicted of gambling; or
- (e) is a Government servant.

211. If a Nyaya Panchayat is satisfied after inquiry that a case brought before it was false, frivolous or vexatious it may order the complainant to pay to the accused such compensation not exceeding twenty-five rupees, as it thinks fit.

Compensation to the accused.

5 of 1898

212. A Magistrate may direct an inquiry to be made under section 202 of the Code of Criminal Procedure, 1898, by a Nyaya Panchayat in any case in which the offence was committed within the territorial jurisdiction of such Nyaya Panchayat and the Nyaya Panchayat shall inquire into the case and submit its report to the said Magistrate.

Enquiry in cases forwarded by Magistrate.

213. (1) The jurisdiction of a Nyaya Panchayat shall extend to any suit of the following description if its value does not exceed two hundred rupees:—

Extent of jurisdiction.

16 of 1887

- (a) a suit for money due on contract other than a contract in respect of immovable property;
 - (b) a suit for the recovery of movable property or for the value thereof;
 - (c) a suit for compensation for wrongfully taking or injuring a movable property;
 - (d) a suit for damages caused by cattle trespass; and
 - (e) a suit under clauses (j) and (n) of sub-section (3) of section 77 of the Punjab Tenancy Act, 1887 as in force in the transferred territory.
- (2) Notwithstanding anything contained in sub-section (1), the State Government or the prescribed authority may, by notification, in the official gazette, extend the pecuniary jurisdiction of Nyaya Panchayat to five hundred rupees in respect of any or all the suits of the description mentioned in sub-section (1).

214. Parties to a suit may, by a written agreement, refer any suit of the nature mentioned in section 229 to a Nyaya Panchayat for decision by it and the Nyaya Panchayat shall, subject to the rules prescribed, determine and dispose of such suit under this Act.

Extension of jurisdiction by agreement of parties.

215. A Nyaya Panchayat shall have no jurisdiction to take cognizance of any of the following suits:—

Exclusion of Nyaya Panchayat's jurisdiction.

- (1) a suit for a balance of partnership account;
- (2) a suit for a share or part of a share under intestacy or for a legacy or part of legacy under will;
- (3) a suit by or against the State or a public servant for acts done in his official capacity;
- (4) a suit by or against a minor, or a person of unsound mind.

216. (1) Every suit instituted before a Nyaya Panchayat shall include the whole of the claim which the plaintiff is entitled to make in respect of the matter in dispute, but he may relinquish any portion of its claim in order to bring it within the jurisdiction of the Nyaya Panchayat.

Suit to include the whole claim.

(2) If a plaintiff omits to sue in respect of or relinquishes any portion of the claim, he shall not afterwards sue in respect of the portion so omitted or relinquished.

Limitation

217. Every suit instituted before a Nyaya Panchayat after the period of limitation prescribed therefor in Schedule III shall be dismissed, even though limitation has not been set up as a defence:

Provided that in computing the period of limitation prescribed for any suit the time during which the plaintiff has prosecuted with due diligence the suit against the defendant in any court shall be excluded where the suit is founded upon the same cause of action and was prosecuted in good faith in a court which from defect of jurisdiction or any cause of like nature was unable to entertain it.

Effect of decision by Nyaya Panchayat.

218. The decision of the Nyaya Panchayat on the question of title, legal character, contract or obligation shall not bind the parties except in respect of the suit in which such matter is decided.

Proceedings

219. (1) The revenue court concerned shall transfer to the Nyaya Panchayat, if any, having jurisdiction, all applications:—

(a) under section 101 of the Punjab Land Revenue Act, 1887 as in force in the transferred territory and under section 107 of Himachal Pradesh Land Revenue Act, 1953 for defining, in accordance with the land revenue record, the limits of any holding, field or other portion of an estate and the Panchayat may so define the limits and may for the purpose of indicating those limits, require survey marks to be erected or repaired;

17 of 1887

6 of 1954

(b) under section 36 of the Punjab Land Revenue Act, 1887 as in force in the transferred territory and under section 46 of the Himachal Pradesh Land Revenue Act, 1953 if the relief required is the restoration of possession to the lawful occupant who is found to have been wrongfully dispossessed of landed property within a period of three months previous to the date of filing the application in the office of the revenue court concerned:

17 of 1887

6 of 1954

Provided that the revenue court concerned, may for sufficient reasons to be recorded, forward any such application to the Sub-Divisional Officer who shall decide whether the application should or should not be transferred to the Panchayat.

(2) A revenue officer may in a proceeding under section 36 (2) or 46 respectively of the said Act, call for a report from the Panchayat on a question of fact.

Procedure in revenue proceedings.

220. In proceedings under the Punjab Land Revenue Act, 1887, as in force in the transferred territory and the Himachal Pradesh Land Revenue Act, 1953, the Nyaya Panchayat shall follow the prescribed procedure.

17 of 1887

6 of 1954

Res judicata and pending suits.

221. (1) No Nyaya Panchayat shall try any suit, proceedings or issue in respect of any matter which is pending for decision, or has been heard or decided by a court of competent jurisdiction in a former suit between the same parties or between the parties under whom they or any of them claim.

(2) Where a case is pending in any court against an accused person in respect of any offence or where an accused person has been tried for any offence, no Nyaya Panchayat shall take cognizance of any such offence or on the same facts, of any other offence of which the accused might have been charged or convicted.

222. Where a case, suit or proceeding is maintainable in more than one Nyaya Panchayat, the plaintiff or the complainant or the applicant, as the case may be, may bring the case, suit or proceeding in any one of such Nyaya Panchayats. Any dispute regarding jurisdiction shall be decided by the Sub-Divisional Judge or Sub-Divisional Officer having jurisdiction as the case may be.

Concurrent jurisdiction.

223. (1) Any person may institute a case or a suit before a Nyaya Panchayat by an oral or written application to the Sarpanch of the Nyaya Panchayat or to such Nyaya Panch as has been appointed for this purpose by the Sarpanch, in his absence, in this behalf and shall at the same time pay the prescribed fee. The Court Fees Act, 1870 shall not apply to Nyaya Panchayats except as may be prescribed.

Institution of suits and cases.

(2) In every suit, the plaintiff shall state its value.

224. (1) Where a suit or a case is instituted orally, the Sarpanch or Nyaya Panch receiving the application shall record without delay the prescribed particulars and take the signature or thumb impression of the applicant thereon.

Substance of the application to be recorded in register.

(2) The Sarpanch or, in his absence, such Nyaya Panch as is mentioned in section 223 shall thereupon or on a reference by revenue court concerned appoint a Bench of the Nyaya Panchayat consisting of three Nyaya Panches and refer the said application to that Bench for disposal and shall also fix a date for the first hearing of the application before the said Bench and give notice of the said date to the applicant and to the Nyaya Panches thereof:

Provided that no Nyaya Panch who is a member of the Gram Sabha in the ward for election to the Gram Panchayat in which ward the place of occurrence of the case lies or in which ward the cause of action for the suit arose, as the case may be, shall be included on the Bench.

(3) On the date fixed for the first hearing of a suit, case or proceeding, the Bench formed under sub-section (2) above shall, unless the Sarpanch is a member of it, choose one of the Nyaya Panches to be the Chairman of that Bench to conduct the proceedings and shall take up and hear suit, case or proceeding, as the case may be, in the prescribed manner.

225. (1) If the plaintiff, the complainant or the applicant fails to appear after having been informed of the time and place fixed for hearing, the Nyaya Panchayat may dismiss the suit, case or proceeding or pass such order as it may deem fit.

Absence of parties in suits and cases.

(2) The Nyaya Panchayat may hear and decide the suit or proceeding in the absence of the defendant or opposite party, if the summons have been served upon him or if he has been informed of the time and place fixed for hearing.

226. (1) Except as provided in sub-section (2) or to correct a clerical error, a Nyaya Panchayat shall have no power to cancel, revise, or alter any decree or order passed by it.

Nyaya Panchayat not to revise or alter its decision.

(2) On an application made within one month of the date of the decree or order or knowledge thereof in case personal service of summons has not been affected, a Nyaya Panchayat may, for sufficient reasons to be recorded, restore any suit or proceeding which has been dismissed in default or in which a decree or order has been passed *ex-parte*.

No legal practitioner to appear.

227. No legal practitioner shall appear, plead or act, on behalf of any party in any suit, case, proceeding or appeal before a Nyaya Panchayat.

Appearance in person or by representative.

228. Subject to the provisions of section 227, any party to a suit, case or proceeding may appear before a Nyaya Panchayat either in person or by such servant (not being a tout or a petition writer), partner or relation authorised by him and permitted by the Nyaya Panchayat to represent him.

Special jurisdiction in matters compromised etc.

229. (1) Notwithstanding anything contained in this Act or in any other law for the time being in force, a Nyaya Panchayat may decide any civil or revenue dispute arising in its local area and not pending in any court in accordance with any settlement, compromise or oath agreed upon by the parties and likewise decide a case if compoundable.

(2) For the removal of doubts, it is hereby declared that a Nyaya Panchayat shall exercise the power vested in it under sub-section (1) in respect of such suits, proceedings or cases with reference to which it has power to decide.

Procedure and power to ascertain truth.

230. (1) The Nyaya Panchayat shall receive such evidence in a suit, case or proceeding as the parties may adduce and may call for such further evidence as, in their opinion, may be necessary for the determination of the points in issue.

(2) The Nyaya Panchayat may make local investigation in the village to which the dispute relates.

(3) It would be the duty of the Nyaya Panchayat to ascertain the facts of every suit, case or proceeding before it by every lawful means in its power and thereafter to make such decree, or order with or without costs as it may seem just and legal.

(4) The Nyaya Panchayat shall follow the procedure prescribed by or under this Act. The Code of Civil Procedure, 1908, the Indian Evidence Act, 1872, the Code of Criminal Procedure, 1898 and the Limitation Act, 1963, shall not apply to any suit, case or proceeding in a Nyaya Panchayat except as provided in this Act or as may be prescribed.

5 of 1908
1 of 1872
5 of 1898
36 of 1963.

Majority to prevail.

231. In the event of any disagreement between the Nyaya Panches while deciding a criminal case, suit or proceeding, the opinion of the majority shall prevail.

Quorum

232. The quorum for a meeting of Nyaya Panchayat shall be three Nyaya Panches.

Dismissal of suits etc.

233. A Nyaya Panchayat may dismiss any suit or proceeding if after examining the plaintiff or the applicant it is satisfied that the suit or proceeding is frivolous, vexatious or untrue.

Summons to defendant or accused.

234. A Nyaya Panchayat, after an application is made under section 223, shall, unless it has been dismissed or otherwise disposed of under the provisions of this Act, cause summons in the prescribed form to be served in the prescribed manner on the defendant or the accused person or an opposite party requiring him to attend and produce his evidence at such time and place as may be stated in the summons and shall at the same time direct the plaintiff or complainant or the applicant to attend and produce his evidence at such time and place.

Failure of the accused to appear.

235. (1) If the accused fails to appear or cannot be found, the Nyaya Panchayat shall report the fact to the nearest Magistrate.

(2) The Magistrate shall issue a warrant for the arrest of the accused

of 1898 and shall direct by endorsement on the warrant that if such person executes a bond with sufficient sureties for his attendance before himself in the manner provided by section 76 of the Code of Criminal Procedure, 1898, he shall be released from custody.

(3) When the accused appears before the Magistrate he shall direct him to execute a bond with or without sureties to appear before the Nyaya Panchayat, Sarpanch, or any Nyaya Panch on such date as he may direct and thereafter to continue to appear before the Nyaya Panchayat as directed by such person or the Nyaya Panchayat.

(4) On his failure to execute such bond the Magistrate shall order that the accused be produced in custody before the person mentioned in sub-section (3) or the Nyaya Panchayat on such date not more than fifteen days later as he may direct.

5 of 1898 (5) If the accused fails to appear before the Nyaya Panchayat after executing a bond under sub-section (3) the Nyaya Panchayat shall report the fact to the Magistrate before whom the bond was executed, and such Magistrate shall proceed in accordance with the provisions of Chapter XLII of the Code of Criminal Procedure, 1898.

236. A Nyaya Panchayat may, if it considers the evidence of, or the production of a document by, any person necessary in a suit, case or proceeding, issue and cause to be served in the prescribed manner, summons on such person to compel his attendance or to produce or cause the production of such document and such person shall be bound to comply with the direction contained in the summons.

Issue of summons to witnesses.

237. If any person who is summoned by a Nyaya Panchayat by a written order to appear to give evidence or to produce any document before it, wilfully disobeys such summons or notice or order, the Nyaya Panchayat may make a complaint to the Magistrate having jurisdiction and the said person shall be punishable with fine which may extend to twenty-five rupees:

Penalties for failing to appear before the Nyaya Panchayat.

Provided that no woman shall be compelled to appear in person before the Nyaya Panchayat. She may be examined on commission in the manner prescribed:

Provided further that if a document is produced in obedience to a summons issued under this section, the Nyaya Panchayat shall cause the document to be copied, mark the copy, after comparing with the original, to be true copy and return the original document to the person producing the same.

17 of 1887 6 of 1954 238. (1) A revision from any order or decree passed by the Nyaya Panchayat in a case or suit shall lie to the Sub-Divisional Judge, and in proceedings under the Punjab Land Revenue Act, 1887, as in force in the transferred territory, to the Sub-Divisional Officer having jurisdiction in the matter and in the proceedings under the Himachal Pradesh Land Revenue Act, 1953, to the Collector concerned.

Revision.

17 of 1887 6 of 1954 (2) If there has been a miscarriage of justice or if there is an apprehension of miscarriage of justice in any case, suit or proceeding or the Nyaya Panchayat has exercised jurisdiction not vested in it by law, the Sub-Divisional Judge in respect of any case or any suit, and the Sub-Divisional Officer in respect of any proceeding under the Punjab Land Revenue Act, 1887, as in force in the transferred territory, and the Collector concerned in respect of any proceedings under the Himachal Pradesh Land Revenue Act, 1953, may on the application of any party or on his own motion, at any time in a pending case, suit or proceeding, as the case may be, and within 60 days

from the date of decree or order, call for the record of the case, suit or proceeding, as the case may be, from the Nyaya Panchayat and for reasons to be recorded in writing—

(a) cancel the jurisdiction of the Nyaya Panchayat with regard to any case, suit or proceeding; or

(b) quash or modify or remand any decree or order passed by the Nyaya Panchayat at any stage.

(3) Where an order has been passed by the Sub-Divisional Judge under sub-section (1) and sub-section (2) in respect of any case or suit, a proceeding in respect of the same relief and on the same facts may be started in the court of the Sub-Divisional Judge having jurisdiction in the matter and the period from the date such suit or case was pending before the Nyaya Panchayat to the date of such order shall be excluded in computing the period of limitation for the fresh suit or order.

(4) Where an order has been passed under sub-sections (1) and (2) by a Sub-Divisional Officer in respect of any proceeding under the Punjab Land Revenue Act, 1887 as in force in the transferred territory or by the Collector concerned under the Himachal Pradesh Land Revenue Act, 1953, a proceeding in respect of the same relief and on the same facts may be started before the revenue court having jurisdiction in the matter and the period from the date such proceeding was pending before the Nyaya Panchayat to the date of such order shall be excluded in computing the period of limitation for the fresh proceeding.

17 of 1887
6 of 1954

Finality of the decree or order of the Nyaya Panchayat.

239. (1) Any person aggrieved by an order or decision of a Bench of a Nyaya Panchayat may appeal in the prescribed manner within a period of thirty days from the date of such order or decision to the full Bench consisting of five Nyaya Panches of the Nyaya Panchayat and the appeal shall be heard and decided by such full Bench in the prescribed manner.

(2) A decree or order passed by a Bench of Nyaya Panchayat in any suit, case or proceeding under this Act shall be final subject to the provisions of sub-section (1) above and section 238.

Frivolous application for revision.

240. If any application under sub-section (2) of section 238 is frivolous, the applicant may be fined upto rupees fifty by the Sub-Divisional Judge, Magistrate or the Sub-Divisional Officer, as the case may be.

Payment or adjustment of decree to be recorded.

241. If on the application of the decree-holder or the judgement debtor, the Nyaya Panchayat which passed the decree finds after inquiry that the decree has been satisfied wholly or in part, the Nyaya Panchayat shall record the fact in the prescribed register.

Execution of decrees.

242. (1) A decree or order passed by a Nyaya Panchayat shall be executed in such manner as may be prescribed. If the defendant's property is situated outside the jurisdiction of the Nyaya Panchayat passing such order or decree, it may transfer the decree or order for execution in the prescribed manner to the Nyaya Panchayat within whose jurisdiction the property may be situated and if there be no such Nyaya Panchayat then to the court of the Sub-Divisional Judge within whose jurisdiction it may be situated.

(2) If a Nyaya Panchayat finds any difficulty in executing a decree, it may forward the decree to the Sub-Divisional Judge and the Sub-Divisional Judge shall then execute the decree as if it were a decree passed by him.

17 of 1887

(3) An order under the Punjab Land Revenue Act, 1887, as in force in the transferred territory shall, as far as possible, be executed as provided in sub-sections (1) and (2). Sub-section (2) shall be read and construed as if for the words "Sub-Divisional Judge", the words 'Sub-Divisional Officer' were substituted.

6 of 1954

(4) An order under the Himachal Pradesh Land Revenue Act, 1953, shall, as far as possible, be executed as provided in sub-sections (1) and (2). Sub-section (2) shall be read and construed as if for the words 'Sub-Divisional Judge' the words "Collector concerned" were substituted.

243. The fine imposed in a case by a Nyaya Panchayat shall be recoverable in the manner prescribed. If the Nyaya Panchayat finds any difficulty in its recovery, it may request the Sub-Divisional Judge, within whose jurisdiction the circle of the Nyaya Panchayat lies, to recover it and he shall recover it as if the sentence of fine had been passed by him.

Recovery of fines.

CHAPTER XVI

MISCELLANEOUS PROVISIONS RELATING TO NYAYA PANCHAYATS

244. The State Government may—

- (i) institute any enquiry in respect of any matter relating to a Nyaya Panchayat, and
- (ii) supersede any Nyaya Panchayat, if, in the opinion of the State Government, such Nyaya Panchayat has abused its position or has continuously failed to perform the duties imposed by the Act or any rule made thereunder.

Supersession of Nyaya Panchayat.

245. Notwithstanding anything contained in this Act, the supersession of a Gram Panchayat shall not involve the supersession of a Nyaya Panchayat elected by it unless the Nyaya Panchayat itself is specifically superseded.

Supersession of a Gram Panchayat not to involve the supersession of a Nyaya Panchayat.

246. On supersession of a Nyaya Panchayat, the Gram Panchayat shall elect a new Nyaya Panchayat in the same manner as provided under section 195 for the unexpired term, provided no Nyaya Panch of the superseded Nyaya Panchayat shall be elected as a Nyaya Panch in the new Nyaya Panchayat.

Election of new Nyaya Panchayat on supersession.

247. (i) The provisions of the Judicial Officers Protection Act, 1850 shall apply to the members of Nyaya Panchayat.

(ii) No suit or prosecution shall be entertained in any court against a Nyaya Panchayat, any Nyaya Panch or officer thereof or any person acting under its or his direction in respect of anything in good faith done or intended to be done under this Act or any rule or bye-law made thereunder.

Protection to Nyaya Panchayat

248. Every police officer shall give immediate information in the prescribed manner to the Nyaya Panchayat of an offence coming to his knowledge which has been committed within the jurisdiction of the Nyaya Panchayat and is triable by the Nyaya Panchayat and shall assist all Nyaya Panches and servants of the Nyaya Panchayat in the exercise of their lawful authority.

Duty of police towards Nyaya Panchayats.

18 of 1850

Power of the State Government to make rules for Nyaya Panchayat.

249. (1) The State Government may, subject to the condition of previous publication by notification in the official gazette, make rules consistent with this Act for carrying out the work of Nyaya Panchayats.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

- (i) the elections to and establishment of Nyaya Panchayats;
- (ii) the time and place of the meetings of Nyaya Panchayat and the manner of convening meetings and giving notice thereof;
- (iii) the suspension and removal of Nyaya Panches and servants of Nyaya Panchayat;
- (iv) the records and registers that shall be maintained by Nyaya Panchayat and the form in which they are to be maintained;
- (v) the action to be taken on the occurrence of a vacancy in the Nyaya Panchayat;
- (vi) the authority by which disputes in relation to appointments to Nyaya Panchayat may be decided and the procedure to be followed therein;
- (vii) the return to be submitted by Nyaya Panchayat in the form in which they are to be, the authorities to which and the time when they shall be submitted;
- (viii) the issue, service or execution of summons, notices and other processes of Nyaya Panchayat;
- (ix) the transfer by a Nyaya Panchayat of summons and other processes to another Nyaya Panchayat or any court for service or execution;
- (x) the fees to be levied by Nyaya Panchayat for institution of suits and cases, for issue of processes, for obtaining copies of documents and other matters;
- (xi) the procedure for execution of a decree, order and a sentence passed by Nyaya Panchayat;
- (xii) the allotment by Panchayats of funds for the performance by Nyaya Panchayats of their duties under this Act and the extent to which fees paid to Nyaya Panchayats may be appropriated by Gram Panchayats; and
- (xiii) generally for the guidance of Nyaya Panchayats, servants of the Nyaya Panchayats and other authorities in any matter connected with the carrying out of the provisions of this Act in relation to Nyaya Panchayat.

Nyaya Panches and servants to be public servants.

250. Every Nyaya Panch or servant of a Nyaya Panchayat constituted under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

45 of 1860

Expenses of Nyaya Panchayats.

251. The expenses of the Nyaya Panchayat shall be charged to the Gram Fund of the respective Gram Sabha of the area in the prescribed manner.

Receipts of Nyaya Panchayats.

252. All sums realised by way of court fees in any case, suit or proceeding or by way of fine in cases tried and disposed of by a Nyaya Panchayat shall be handed over by the State Government to the Gram Sabhas situated within the jurisdiction of the Nyaya Panchayat in the prescribed manner.

Disputes regarding election of Nyaya Panchayats.

253. Any dispute regarding the election of a Nyaya Panch or Sarpanch or Naib-Sarpanch of a Nyaya Panchayat shall be referred to the Deputy Commissioner whose decision in the matter shall be final and shall not be questioned in any court of law.

254. There shall be appointed a whole time or part time Panchayat Secretary for each Nyaya Panchayat by the prescribed authority in the prescribed manner and such Panchayat Secretary may perform such duties as may be prescribed.

Appoint-
ment of
secretary.

255. The Government may delegate any or all of its powers to any officer under this Act in relation to the Nyaya Panchayat except the rule making power under section 249.

Delegation
of powers.

256. No conviction by a Nyaya Panchayat shall be deemed to be previous conviction for the purpose of section 75 of the Indian Penal Code, 1860 or section 562 or 565 of the Code of Criminal Procedure, 1898.

Conviction
by Nyaya
Panchayat
not to be a
previous
conviction.
Saving of
existing
Gram
Sabhas etc.

257. Notwithstanding the repeal of any of the Acts under section 2:—

- (a) all Gram Sabhas, Gram Panchayats, Nyaya Panchayats and Panchayat Samitis constituted and functioning immediately before the commencement of this Act, shall be deemed to be Gram Sabhas, Gram Panchayats, Nyaya Panchayats and Panchayat Samitis constituted and functioning under the provisions of this Act;
- (b) anything done or any action taken including the Gram Sabhas, Gram Panchayats, Nyaya Panchayats and Panchayat Samitis constituted, limits defined, appointments, rules, regulations, bye-laws and orders made, notifications and notices issued, taxes, tolls, rates, fees imposed or assessed, contracts entered into, permissions and licences granted, and suits instituted under any Act repealed under section 2, or any enactment thereby repealed, shall, so far as may be, be deemed, unless the State Government directs otherwise, to have been respectively done or taken, constituted, defined, made, issued, imposed or assessed, entered into, granted, and instituted under the corresponding provisions of this Act;
- (c) any reference made in any law for the time being in force, to any Act repealed under section 2, shall be construed as reference to this Act; and
- (d) the members elected or appointed to any Gram Panchayat, Nyaya Panchayat or Panchayat Samiti under any of the repealed Acts, shall continue to hold office till the expiry of their present term of office.

SCHEDULE I

FORM OF OATH FOR PANCHES OF GRAM PANCHAYAT NYAYA PANCHES OF NYAYA PANCHAYAT AND MEMBERS OF PANCHAYAT SAMITI AND ZILA PARISHAD

I, swear in the name of God/solemnly
(name)

affirm that I will bear true faith and allegiance to the Constitution of India as by law established, that I will faithfully and conscientiously discharge my duties as a Panch of Gram Panchayat/Nyaya Panch of Nyaya Panchayat/Member of Panchayat Samiti/Member of Zila Parishad

.....
(name)

and that I will do right to all manner of people in accordance with the Constitution and the law without fear or favour, affection or ill-will.

SCHEDULE II

(See section 203)

OFFENCES COGNIZABLE BY A NYAYA PANCHAYAT

No.	Name of Act or Code	Offence	Section
1	2	3	4
1.	Indian Penal Code	Committing affray	160
2.	-do-	Absconding to avoid service of summons or other proceedings.	172
3.	-do-	Obstructing service or publicising of summons issued by lawful authority.	173
4.	-do-	Refusing oath or affirmation when duly required by a public servant.	178
5.	-do-	Refusing to answer a public servant authorised to question.	179
6.	-do-	Refusing to sign statement	180
7.	-do-	Intentional insult or interruption to public servant sitting in judicial proceeding.	228
8.	-do-	Offences relating to weights and measures mentioned in Chapter XIII.	264 to 267
9.	-do-	Negligently doing an act dangerous to human life.	269
10.	-do-	Defiling the water of a public spring or reservoir.	277
11.	-do-	Danger of obstruction in public way or line of navigation.	283
12.	-do-	Dealing with fire or any combustible matter as to endanger human life etc.	285
13.	-do-	Dealing with any explosive substance so as to endanger human life etc.	286
14.	-do-	Omitting to guard against probable danger to human life from a building over which a person has right to pull down or repair.	288
15.	-do-	Negligent conduct with respect to any animal.	289
16.	-do-	Committing a public nuisance	290
17.	-do-	Obscene acts and songs	294
18.	-do-	Voluntarily causing hurt	323
19.	-do-	Voluntarily causing hurt on provocation.	334
20.	-do-	Wrongfully restraining any person	341
21.	-do-	Assault or use of criminal force otherwise than on grave provocation.	352
22.	-do-	Theft or dishonestly receiving or retaining stolen property where the value of the property stolen does not exceed Rs. 250; provided that no	379

1 2 3 4

Nyaya Panchayat shall take cognizance of any such complaint if the accused—

- (i) has been previously convicted of an offence under chapters XII or XVII of the Indian Penal Code punishable with imprisonment of either description for a term of three years or upwards; or
- (ii) has previously been fined for theft or receiving or retaining stolen property by any Panchayat; or
- (iii) is a registered habitual offender under any law for the time being in force; or
- (iv) has been bound over to be of good behaviour in proceedings instituted under section 109 or 110 of Criminal Procedure Code, 1898 (V of 1898); or
- (v) has had an order of restriction passed against him under the Restriction of Habitual Offenders (Punjab) Act, 1918 (V of 1918); or
- (vi) has been previously convicted for gambling.

23.	Indian Penal Code	Dishonest misappropriation	403	} Provided the amount of property involved does not exceed Rs. 250.
24.	-do-	Criminal breach of trust	406	
25.	-do-	Dishonestly receiving stolen property.	411	
26.	-do-	Cheating	417	
27.	-do-	Mischief when the damage or loss caused does not exceed fifty rupees in value.	426	
28.	-do-	Mischief and thereby causing damage to property or loss of Rs. 50 or exceeding Rs. 50 in value.	427	
29.	-do-	Maiming of animal of the value of Rs. 10.	428	
30.	-do-	Mischief by killing or maiming cattle etc. of any value or any animal of the value of Rs. 50.	429	
31.	-do-	Criminal trespass	447	
32.	-do-	Insult intended to provoke breach of the peace.	504	
33.	-do-	Punishment for criminal intimidation etc.	506	

1.	2	3	4
34.	Indian Penal Code	Uttering any word or making any gesture intended to insult the modesty of a woman.	509
35.	-do-	Misconduct in public by a drunken person.	510
36.	The Vaccination Act, 1880 (Act XIII of 1880).	Punishment of offences covered by clauses (a), (b) and (d) of section 22.	22 except clause (c)
37.	Punjab Vaccination Act, 1953 (XLIX of 1953), as in force in the transferred territory.		16
38.	Cattle Trespass Act, 1871.	Forcibly opposing the seizure of cattle or rescuing the same.	24
39.	-do-	Causing damage to land or crops or public roads by pigs.	26
40.	Punjab Juvenile Smoking Act, 1918 (VII of 1918) as in force in the transferred territory.	Penalty for selling tobacco to children	3
41.	-do-	Seizure of tobacco being smoked by juvenile in a public place.	4
42.	Himachal Pradesh Juveniles (Prevention of Smoking) Act, 1952.	Penalty for selling tobacco to children	3
43.	-do-	Seizure of tobacco from juvenile in a public place.	4
44.	Public Gambling Act, 1867 (II of 1867).	Penalty for owning or keeping or having charge of gambling house.	3
45.	-do-	Penalty for being found in a gambling house.	4
46.	-do-	Penalty on persons arrested for giving false names and address.	7
47.	} Indian Forest Act, 1927 (XVI of 1927).	Acts prohibited in such forests	26
48.			and 33
49.	Punjab Land Preservation Act, 1900 (Punjab Act II of 1900) as in force in the transferred territory.		19
50.		Offences under sections 26, 32 and 59 under this Act.	

SCHEDULE III

(See section 217)

PERIOD OF LIMITATION FOR CERTAIN CLAIMS

<i>Description of suits</i>	<i>Period of limitation</i>	<i>Time from which period begins to run</i>
1. For money due on a contract.	Three years.	When the money became due to the plaintiff.
2. For the recovery of movable property or the value thereof.	Three years.	When the plaintiff became entitled to the delivery of the movable property.
3. For compensation for wrongfully taking or injuring a movable property.	Three years.	When the movable property was wrongfully taken or when injury was done to it.
4. For damages caused by cattle trespass.	One year	When the damage was caused by the cattle trespass.